Public Utilities
FORTNIGHTLY

VOL. VIII; No. 4 AUGUST 20, 1931

The Power Trust, the Politician, and the Plunderbund

PART I

The Municipal Power Plant Enters the Arena of Debate

THE "power issue" is not merely threatening to enter the brewing political campaign; it has already entered it. Radical politicians and government ownership advocates are accusing the utilities of plundering the public—of resorting to corrupt financial practices and of bribing public officials, the press, and the schools. On the other hand the utilities are accusing the radical politicians of agitating distrust of the established American principles of private ownership and of commission regulation, for the selfish purpose of making votes for themselves and of placing within their reach patronage which they can dispense. The author of this series of articles maintains that the socialistic doctrine of government ownership is a threat to all industry—and that the time has come when the identity, purposes, and plans of the real plunderbund should be revealed.

—EDITORIAL NOTE.

BY ERNEST GREENWOOD

IF one listens long enough and hard enough to the Socialist Party and such allied organizations as The League for Industrial Democracy, the Public Ownership League of America, the National Popular Government League, and the People's Legislative Service, he will become absolutely convinced that the movement for municipal ownership of public utilities is spreading throughout the United States like the proverbial wildfire and that all present existing municipal ownership projects are due

entirely to the activities of these self-appointed guardians of the social and economic welfare of a public which has no idea how to take care of itself. They really make out a very good case if one is inclined, after the manner of at least one well-known Federal Commission, to hold an *ex parte* hearing and pass judgment on the array of alleged facts, half truths, interpretations, and plain misstatements which they present.

THE claim that the development of municipal ownership sentiment in this or that community, or its translation into an accomplished fact, is due largely to the gradual acceptance of socialistic or communistic doctrines stimulated by the activities and "educational" propaganda of any one or all of these organizations is not true.

Nor is it true that municipal ownership of public utilities had its inception in socialism or communism.

To say that any one of the hundreds and even thousands of communities in the United States which own their own waterworks, light and power plants, or street car lines, are essentially socialistic is to insult the intelligence of the citizens of those communities and give the lie to election statistics, which do not indicate any great growth of socialistic sentiment in the United States. Except by indirection, neither the socialist nor any of the various organizations working along similar lines has made any material contribution to the progression or retrogression—it is now steady retrogression—of municipal ownership and operation of any kind of a business. They have, of course, bitterly attacked utilities and have urged political ownership, but usually from an economic standpoint.

THE facts are that municipal ownership of public utilities had its inception in the early days of the industry when the services of these utilities were largely experimental, gave little indication of the great future which they were destined to have, and had little or nothing to offer private capital in the way of conservative investment.

In spite of a rapidly growing experience with the steam railroads and the telephone, electric light and power generated in a central station for distribution throughout the community was looked upon largely as a gamble in the late eighties and early nineties. It required comparatively large investment in plant and equipment, working only a few hours each day until the development of the individual motor and the use of electrical energy for power as well as for artificial lighting. The cost of electric service was consequently high and only the well-to-do could afford it. The prospect of the industry ever becoming the basis for sound investment and banking that it is today, was so remote that capital was enlisted by the early pioneers only with the greatest difficulty.

However, the practicability of centrally generated electricity for street and home lighting was demonstrated beyond argument and progressive communities desirous of obtaining the advantages of this new and convenient form of light, got together and installed community plants when it was found that private capital would not do so.

This was the beginning of municipally owned light and power plants, and socialism, communism, collectivism, syndicalism, Marxism, or any other "ism" had nothing to do with it. Its genesis is to be found in the desires of a community to obtain something which it could acquire only by community action. Hundreds of these communities in recent years have gladly junked their plants and turned to the great central station, privately owned and privately operated, and offering 24-hour, metropolitan service.

THERE have, of course, been reasons for the development of a municipal ownership complex other than the failure of capital to be interested in the installation of a light and power service to this or that community. It has frequently happened—and it should be admitted quite freely—that the management of an existing privately owned electric utility has been of a character to antagonize the whole community to such an extent that public sentiment has forced the installation of a municipal plant. The history of the light and power industry differs little from the history of the railroads or any other great national industry. It has had its black sheep, and still has a few that are suspiciously grey in color. To insist that it has always been "whiter than snow" and operated entirely by individuals whose only thought has been to be of service to their fellow-men is to be just plain silly. Of course, it is a business intended to earn money for its owners, just like any other business.

Until the coming of state regulation as to rates to be charged and quality of service to be rendered, the electrical utilities had their full quota of short-sighted individuals whose only creed was "charge all the traffic will bear," as well as of high pressure promoters who, after capitalizing a couple of miles of rusty wire and a worn-out dynamo, would go out and sell stock to the gullible. Between the salutary effect of state regulatory and blue sky laws, and the honest efforts of the real leaders of the industry itself, the field has been fairly well purged of this type of individual and their over-capitalized, under-equipped enterprises.

THERE has been a third and exceedingly important reason for municipal ownership of public utilities

¶ "THE *municipal plant pays no taxes and municipal bonds are tax free. This loss in income from taxes must be made up by the community. . . . If the community can borrow for a little less than the current value it is due entirely to the tax free characteristics of municipal securities and to the fact that the municipal government can force the taxpayers to make up any deficit in earnings. which means that the individual citizen is paying as much for the capital needed for the municipal plant as he would for capital for a private plant.*"

in certain communities—politics and politicians.

Public service at cost with no profit to the money lenders has been a favorite cry of politicians campaigning for office since time immemorial and it always meets with a ready response on the part of a certain unthinking class of voters. "Down with the public utility grafters" always makes a good headline and the newspaper-reading public eagerly devours stories of the alleged criminal intent and accomplishments of those occupying high economic and social places. Sound economic facts make dull reading and furnish poor ammunition with which to combat these emotional appeals.

Politicians in office look upon the public services as golden opportunities to provide an unlimited number of jobs with which to reward the faithful if only they can get control of them. The business being highly technical, and requiring much experience and training if the public utility company is to give the service for which it is designed, public utility executives have always been cold to pleas on the part of government officials for a wide-open political employment door.

With the coming of state regulation and the control of public utilities by state regulatory bodies, the public utilities are no longer dependent upon the good will of municipal officials. Hence the cry "municipal ownership" in the hope of obtaining jurisdiction over the substantial incomes and job possibilities of these public service enterprises. "More and bigger payrolls for political preference pressure purposes" might well be their slogan.

HOWEVER, even though we may dismiss the socialists and the radicals as a major factor in existing municipal-ownership public utility enterprises in the United States, they refuse to stay dismissed and continue to conduct their campaigns for government ownership and operation in the press, in various radical reviews, in schools, churches, and over the radio, to say nothing of the anterooms of Congress, state legislatures, municipal councils, and executive offices of Federal, state, and municipal governments. They have adopted municipal ownership as one of their own progeny of which they are distinctly proud, and intimate that it is only the fear of municipal ownership, backed by the socialist and allied movements, which keeps the privately owned and operated utility in line in hundreds of communities. It becomes necessary, therefore, to examine their arguments in order to find out if they have anything constructive to offer and if any of them will actually hold water.

THE arguments in favor of municipal ownership and operation of local electric light and power services can be placed under three main headings. These are: (1) social; (2) economic; and (3) the quality and stability of the service on which the people are dependent.

THE basic argument of all advocates of government ownership and operation is that electric light and power, like adequate water supplies, gas, the telephone, and transportation facilities, is an essential commodity if the nation is to maintain its present standard of living. Because of its character, they say in effect, that its

The Prospect of Having Political Jobs to Dispense to the Faithful Inspired the Radical Office Seeker

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generation and distribution is necessarily a monopoly, whether owned by the community, by a few individuals within the community, or by a holding company which has no interest in the community other than the earnings to be derived from the public utility property. It is manifestly unfair to turn over to an individual or a corporation, they continue, a monopoly of what has become an actual necessity to all of the people and permit them to exploit the citizens of the community by charging whatever rates for service and rendering whatever kind of service they see fit.

It is a comparatively simple matter to reply to these arguments with the same sort of glittering generalities. One can always show that municipal ownership is nothing more or less than the substitution of political ownership and operation for private capital and private initiative, pointing to the fact that the effect of government ownership is best illustrated by political, social, and living conditions in Soviet Russia, while the best example of the effect of a policy which leaves all business to private enterprise is to be found in the United States. One can talk about its being a radical departure from American traditions—which it is—and call, in a loud tone of voice, upon the radicals to prove that their methods are economically and politically sound. One can quote a long line of Presidents, from Jefferson to Hoover, and point with pride to what the electric light and power industry, as it is today, has contributed to present day standards of living.

In doing so, however, one is simply borrowing a leaf from the book of the socialists when they discuss the social phase of the controversy "political *versus* private ownership." That is, dealing in high sounding phrases and *pseudo* idealism without getting down to brass tacks, which, after all, is the chief criticism of socialist propaganda. American business has always dealt in facts and figures, interpreting history in terms of present-day standards of living, and it makes

a sorry showing when it strays into a field of philosophic detachment. What are the facts which should be addressed to this basic argument?

IN the first place, it must be remembered that we are not living in the pioneer days of the railroads or the public utilities when everything was wide open and the devil take the hindmost.

Capitalism itself has progressed in its understanding of the fact that the interest of the consumer is quite as important a consideration in the economic, industrial, and social progress of a capitalistic nation as are money, labor, materials, and natural resources. It recognizes the propriety of organizing these interests under the direction of a representative government and of proper control over methods of doing business in the interest of the public at large. Hence, not only acquiescence but active support of all proposals for legislation providing for control over the issuance of securities, banking methods, regulation as to price and quality of public services which are given a monopoly of location in so far as competition from services of like kind is concerned, unfair methods of business competition, dishonest advertising, and a host of other governmental restrictions which are just as much in the interests of privately owned and operated, honestly conducted, business enterprises as they are in the interest of the public. Electric public utilities, for example, have felt that the proper regulation by the states would bring order out of a business which promised to be almost as chaotic as that of the railroads in their early days, and they have openly advocated public utility laws to be administered by state regulatory bodies.

WITH these thoughts in mind, we can turn to the most imposing of the accusations made by the socialists; namely, that electric light and power is an essential commodity which has been turned over as a monopoly to a mythical power trust unrestricted as to its methods of doing business, the rates which it shall charge the consumers of this essential product, or the quality of service rendered.

In the first place, the local light and power company has a monopoly in so far as location is concerned for no other reason than that all economists, socialistic or otherwise, are agreed that it is not in the interest of the consumer to permit two competing electric light plants to operate in the same community or the same area. It is just as unsound as two telephone companies or two street car lines on the same street, as in the case of Market street, San Francisco. However, this does not mean that it has a monopoly in so far as being engaged in a non-competitive business is concerned. It faces very serious competition for the consumers' dollar and, in fact, with the same commodity which it produces.

ELECTRICITY is always in competition with coal, gas, and oil for power and for heating, and with gas, oil, and even the modern candle for lighting, and with gas for cooking, water heating, and mechanical refrigeration. In rural areas where electricity is available it must compete with coal, bottled gas, and oil for

cooking and heating, and with oil and bottled gas systems for lighting. On the farm outside the house, it must compete with the internal combustion engine.

In the light and power market for manufacturing and various commercial purposes, such as hotels, department stores, and hospitals, it must compete with the possibility that the factory, the hotel, the store, or the hospital can always install its own generating plant and manufacture electricity as a by-product of its heating plant. This is a game which can only be beaten by superior service and low rates. Regardless of the existence or nonexistence of regulatory laws as to rates and quality of service, the electric utility has many problems of competition which preclude either excessive rates or poor service, as many a short-sighted public utility operator has found out to his sorrow.

Finally, the operator knows that there is always the possibility of a competing municipally owned plant should he treat the community unfairly.

It is an accepted fact that an adequate supply of good water is of vital importance to the health and life of any community and is of far greater importance than any other commodity listed under public services. Because of this fact we are told that 206 of the total of 247 communities in the United States with populations of 30,000 or more own their own water supply and furnish water to their citizens at cost.

Laying aside, for the moment, the question as to whether these communities are furnishing better water at less cost than could be furnished by a privately owned and operated corporation, all public services must be divided into two categories. The first consists of those which are absolutely essential to the health and safety of every man, woman, and child in the community, such as water supply, police and fire protection, hospitals, and the public schools. Water supply, *per se*, is not only an essential, but it is also essential to these other services. The second consists of those which are not absolutely essential but which contribute to the present standard of living, such as electric light and power, gas, the telephone, and transportation facilities. I include the telephone in the same category with electric light and power advisedly in spite of the fact that the senior Senator from Nebraska told me in a personal interview that he did not consider the telephone in any sense an essential and that he could get along

¶ "Giving *the municipality or state actual ownership and operation of the utilities, which would have to be placed under some type of governmental management, would not increase their efficiency or reliability in the slightest. This management would have to be selected by the state just as the present state utility commissions are selected by the state.*"

without it much better than he could get along without electricity.

THE first group cannot be considered as "businesses" in the ordinary sense of the word, any more than the public health service can be considered as a business. They have no problems of competition. A people cannot exist without water any more than it can exist without food.

The second group, on the other hand, are businesses, and while they may have monopolies of location, they have the same problems of competition as any other business and they are regulated by state and Federal law in the public interest.

TURNING to what they sometimes call "enormous combinations," and other times "vast aggregations" of capital, the socialists and other radicals tell us that these "combinations" or "aggregations" have secured a monopoly of an essential industry by corrupting city officials and councils, state legislatures, courts, and members of Congress and that effective regulation of them is impossible.

Governor Pinchot of Pennsylvania went so far in his inaugural address on January 20, 1931, to say:

> "Politicians who procure men to debauch the ballot, vote thieves who nullify the franchise of honest citizens, political contractors whose graft supplies the cash for war boards to use in crooked elections, public service commissions that listen complaisantly to their utility master's voice; these are the mercenaries without whom the public utilities would be powerless."

Fearful that he had not been sufficiently emphatic, he added:

> "Back of the utilities in their attack on our American form of government is the whole fabric of political corruption; the underworld, the protected racketeer, and criminals of high and low degree."

In his book entitled "Electrical Utilities—the Crisis in Public Control" Professor William E. Mosher, of Syracuse University tells us that

> "it should be generally recognized that we are hardly on the threshold of public control. In fact, such control as exists (regulation) is not far from the breakdown stage."

This passage will be found on page 188. Beginning on page 292 we find him complaining rather bitterly about what he calls the public indifference, saying:

> "This indifference makes the situation even more critical. For without a public alive to its own interest many of the problems can go by the board for an indefinite period and to the great advantage of the utilities, while others will be handled in accordance with the well conceived program of the latter which is, in the main, the program of exploitation."

His whole book would be much more convincing, if, in the chapter which concludes on page 188, he had adduced even one instance of dissatisfied customers or of injured investors and if he had left out entirely his reference to the lack of public response to socialistic propaganda, beginning on page 292.

GOVERNOR Pinchot, Professor Mosher, and all others of their same school of thought are simply playing on what they think constitutes a normal American fear of the "bigness" of any industry. They either do not understand, or wilfully ignore, the fact that it is the very size of the electrical industry that has enabled it to gather together the resources of financing, engineering, and experience needed to give the people the type of service they are receiving today. They do not understand, or wilfully ignore, the fact that advancements in the art of generating and distributing

Municipal Ownership Means the Substitution of Political Operation for Private Initiative

"THE average city official who is entrusted with the management of a municipal plant is connected in one way or another with a political machine, and political machines are very much inclined to use municipally owned plants for their private ends and for self-perpetuation in power. Patronage is always available, positions become political plums, and large sums of money are at the disposal of political rings."

electricity (due entirely to private initiative) have proved that the small isolated plant is uneconomical and cannot be depended upon for quality service. Because of this fact, the light and power industry has been gradually eliminating these small plants and rendering service to their communities from large central generating stations by means of interconnection and thus assuring them the same quality of service as that enjoyed by even the largest cities.

When they claim that the light and power industry is a major corrupting influence in our social, economic, and political life, they are doing nothing more or nothing less than attacking the present government of the United States, as well as the governments of the various states and thousands upon thousands of municipalities. It takes two or more to constitute a conspiracy of corruption and bribery, and if what they say about the political purchasing power of the utilities is true, then the exercise of that power, if any, must have been made necessary by the demands of government officials. No doubt in the early days when the right to go into the business of furnishing electric light and power was largely a question of municipal franchises and the sky was the limit, there were some questionable procedures, just as there were questionable procedures in the building of railroads or telephone lines, or water systems, or sewers, or highways. But just because Cain killed Abel is no reason to suppose that all wheat growers are actual or potential murderers of sheep herders and cattle raisers.

FURTHERMORE, if regulation of utilities by state laws and regulatory commissions had fallen down—which it has not—it would not be the fault of the scheme. The laws in the various states are admittedly good and if enforced will control the public services in the interests of the public. The scheme of administering these laws is admittedly good. If they have not been properly administered, it is the fault of the commissions themselves and giving the municipality or state actual ownership and operation

of the utilities, which would have to be placed under some type of governmental management, would not increase their efficiency or reliability in the slightest. This management would have to be selected by the state just as the present state utility commissions are selected by the state and there is no reason to believe that they would be any more efficient or any more honest than the state officials administering the state utility laws.

IT is all very well for critics of the industry to say that clever lawyers outwit the various public service commissions and have found technicalities in the law by means of which they have been able to add untold millions to the "valuation" of their companies. If this is true then it is up to the governors of the various states to appoint commissioners who can "out-smart" these clever utility lawyers and see that legislation is passed which will take these technicalities out of the law. Every criticism of regulation by states, as it is now in effect, is a criticism of the administrations of the states and not a criticism of the scheme to protect the public from excessive rates and poor service. In short, this talk about the power of great aggregations of capital, corruption, and clever corporation attorneys twisting state governments around their respective fingers, is just plain nonsense.

THE socialists offer from time to time quotations from statements made by men who have achieved prominence either in public life or in other activities which are countered with an even more imposing array by the advocates of private enterprise and individual initiative. Arguments of this class are only important when it can be shown, beyond question, that the person quoted has had the actual experience and the demonstrated ability to have his opinions treated with respect. When the only direct contact which the person has had with public utility operation is through the cashier to whom he pays his bill or with the meter reader who calls at his house to find how much he owes, he can hardly be accepted as an authority on power economics.

One of the most interesting quotations of this kind is taken from a message handed to the New York state legislature by former Governor Alfred E. Smith on January 5, 1927. He said:

> "It is time that we cease to hamper the freedom of municipalities to own and operate public utilities. As a matter of fact, there are many localities that now do so. Public ownership and operation are not untried theories. In fact, the trend of modern government has been in that direction."

The interest in this statement lies in the fact that on November 25, 1930, former Governor Smith, then in private employment, contrasted the six months and two days required to erect the eighty-five-story Empire State building with the two years it took for the completion of the state's five-story office building at Worth and Center streets. "The answer is," he said, "the state and the city build by the letter of the law; there is no leeway; there is no freedom for an executive who has charge of public construction." It took the Philadelphia Electric Company just two years to construct and place in operation the great Conowingo hydroelectric project which has a generating capacity of

378,000 horsepower. It took the United States government just eight years to build and place in operation the hydroelectric project at Muscle Shoals which has an installed capacity of 260,000 horsepower.

WITHOUT doubt the most ridiculous claim made by the socialists when they discuss the social phases of government ownership and operation is that municipal ownership removes the service of electricity from the realm of politics.

What it actually does is to take that service out of business and make it the football of politics, as any one who reads the daily newspapers very well knows.

The employees of a local light and power company which is municipally owned are under civil service, while the higher operating officials are subject to change with every change in the administration, particularly if there is a change in the party in power. The average city official who is entrusted with the management of a municipal plant is connected in one way or another with a political machine and political machines are very much inclined to use municipally owned plants for their private ends and for self-perpetuation in power. Patronage is always available, positions become political plums, and large sums of money are at the disposal of political rings. There are, of course, occasional isolated cases where a municipally owned plant does not become involved in politics; this has been due to the fact that the city has an unusually strong personality at the head of the local government who is kept in office without regard to political affiliations. I have in mind Jamestown, New York, where the city has been particularly fortunate in its mayor. All of the weight of the evidence, however, is in the other direction.

IN their studies of the economic phases of municipal ownership and operation the socialists claim that the light and power plant built by the community requires less capital than it does when built by private capital. Whenever it appears that this is so, it will almost invariably be found that it is due to items in the cost of engineering and supervision which have been charged to some other department of the city government or to failure to employ the highest grade of engineering and technical skill. Labor and materials cost the city as much and frequently more than they cost the private enterprise. Government ownership construction jobs usually cost from two to six times the engineer's estimates, and it usual-

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¶ *"THE operators of a municipally owned plant are dependent for their jobs on the party in power and the city officials which represent that party; they are only concerned with a majority of the voters and not with the community as a whole."*

ly takes from two to six times as long to complete a job under government construction as it does under private construction. The average municipality cannot possibly afford to pay the price of the talent employed in the engineering and construction departments of the larger consolidated companies. Furthermore, a single isolated plant cannot be built as efficiently or as cheaply as a plant which is built as a part of a large interconnected system, any more than individuals working singlehanded, could produce the volume of material or give the service required by modern industry and society.

IT is also claimed that the municipality can obtain capital at a much lower rate of interest than a private corporation. It is quite true that municipal bonds can be sold at a lower rate of return than the bonds of a private corporation, for the very good reason that the purchaser of a municipal bond is not concerned with questions of operating efficiency and skill of management of the borrowing city because he is protected by the entire credit of the city which has the power to levy taxes for the payment of principal and interest and what the government does with the money or how it spends it is of no interest to him.

Furthermore, it must be remembered that the municipal plant pays no taxes and that municipal bonds are tax free. This loss in income from taxes must be made up by the community, the state, and the nation as a whole. Money is a commodity just like wheat, pig iron, or cotton, and must be paid for at the current market rate. If the community can borrow for a little less than the current value it is due entirely to the tax free characteristics of municipal securities and to the fact that the municipal government can force the taxpayers to make up any deficit in earnings, which means that the individual citizen, as a unit of the community, is paying as much for the capital needed for the municipal plant as he would for capital for a private plant.

IT should also be remembered, when discussing the question of capital investment, that any establishment, whether government or private, making use of capital must pay a return on that capital. The retirement of a bonded debt, either by a municipality or a private company, does not mean that the investment does not still exist. In the case of the municipally owned plant, the money to pay off the bonds must be obtained either from the consumers of electricity or the taxpayers. This money has the same earning power as the original money obtained from the sale of bonds.

There are a number of other inter-

esting points which should be noted. These are: (1) Interest on the investment represents only 13 per cent of the total cost of generating and distributing electric light and power; (2) In the case of the private plant, excessive or arbitrary values cannot be assumed—in the case of the municipal plant there is no check on the price which the administration may pay for real estate, to contractors, etc., and it is far easier to over-capitalize a municipal plant than a private plant; (3) The public service commission can order a private company to make improvements and extensions in accordance with the demands of the people of the community, while the local administration is subject to no such authority.

IN SO FAR as the quality and stability of the service is concerned, history has proved that there can be no comparison between the isolated municipal plant and the privately owned and operated plant which is part of an interconnected system. The light and power industry is rapidly abandoning these small, isolated plants and hundreds of municipalities are doing the same thing; either buying their current wholesale from the private companies or turning over their distributing systems as well as their inefficient generating stations.

When the isolated municipal plant breaks down there is an immediate interruption in the water and sewage systems, police and fire alarm systems, and street lighting. The privately owned plant which is part of a great system can restore service within a few minutes.

The private company is dependent for its very existence on the good will of the community, which can only be retained by giving the finest possible service. On the other hand, the operators of a municipally owned plant are dependent for their jobs on the party in power and the city officials which represent that party—they are only concerned with a majority of the voters and not with the community as a whole.

One of the best examples of private ownership and operation of a public utility is the system of the American Telephone and Telegraph Company which controls every local Bell telephone company in the United States and owns the long-distance lines. It is this fact that is largely responsible for the finest telephone system in the world. Had the telephone been left in the hands of thousands of local companies, as the advocates of municipal ownership would distribute the light and power industry among thousands of unconnected communities, we would still be having the telephone service of thirty or forty years ago.

In so far as quality of service is concerned, municipal ownership means a step backward to the electric light and power service of the late nineties or the early years of the present century, and fortunately most communities in the United States are fully aware of this fact.

IN the next number of PUBLIC UTILITIES FORTNIGHTLY *(out September 3rd)* ERNEST GREENWOOD *will tell how the privately owned power plant entered the scene and why it is taking the place of the municipal plant—and he will substantiate his statements with authenticated, detailed facts and figures from the latest sources.*

The Case For and Against the One-man Utility Commission

JUST how does the public utility commission fit into the picture of a modernly organized state government and how should the commission itself be organized? The author points out the trend toward the one-man commission as against the present system of organization and describes the background of this movement. The recent action of Oregon in abolishing the public service commission and substituting a single-headed department to regulate public utilities in that state gives news value to the following article.

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THE state agency for the regulation of public utilities and common carriers of the future may be constituted, organized, and administered radically different from the type of public service commission familiar today.

There is an unmistakable trend in this country, especially among students of government structure and functioning, for abolition of the almost universal system of commission regulation of public utilities and common carriers and the substitution thereof of a single-headed regulatory agency.

Another phase of the movement carries with it the principle that this officer should be appointed by the governor in the same way as other departmental heads are appointed by the chief executive in those states which have reorganized their governments along the lines of the National Government. This latter suggestion, however, is neither so novel nor radical in that the current practice in over half of the forty-eight states is to appoint the public service commissioners. The tendency to vest in single-headed agencies *quasi* judicial and *quasi* legislative duties and functions has gone beyond the field of theoretical argument. The fact is that more than one state has already done this with regard to such common governmental activities as taxation, civil service, and labor legislation, and a beginning has been made in the field of public utility regulation.

TO get a brief background of this trend one must go back to 1917.

Ever since that year and starting with the state of Illinois under the leadership of Governor Lowden there has been an outstanding development taking place in the forty-eight state governments. This movement, popularly known as the reorganization or consolidation movement, has had for its purpose the establishment of state administration and organization on an economical and efficient basis. Over twenty-five of the forty-eight states have reorganized their governments since 1917 with these definite principles in mind:

1. The governor should be the real and not the nominal head of the state government.

2. A small number of departments should be established, each headed by a director appointed by the governor, for terms coördinate with that of the governor.

3. As a general rule, boards and commissions should be replaced by departments under single-headed control.

4. Business techniques such as the executive budget, centralized accounting and fiscal control, centralized purchasing, and improved tax administration should be adopted.

UNDER this system the government is established in much the same manner as a successful private enterprise is conducted—complete executive authority rather than diffused and unwieldy authority being the foundation. The advocates of reorganization, (and they count among their number such eminent personages as ex-Governor Alfred E. Smith, President Herbert Hoover, ex-Governor Lowden of Illinois, ex-Governor Harry F. Byrd of Virginia, and others), maintain that only in so far as governments can be made responsible and responsive can economical and efficient administration be secured. That reorganized state government has shown up with advantage is apparent to all those who have studied the matter.

But in practically every reorganization carried out a difficult problem has arisen when the reorganization principles were to be applied to the public service commission. Here is an agency, unlike most other state agencies, in that it exercises *quasi* judicial functions, and the point has been made and usually adhered to that *quasi* judicial functions should not be vested in a single officer. Dr. W. F. Dodd, the eminent political scientist, wrote in 1928 as follows, concerning the problem occasioned by *quasi* judicial agencies and reorganization:

> "One of the most serious problems in connection with state administrative organization is that of the *quasi* judicial and discretionary functions to be performed by the state. Tax commissions, public utility commissions, and industrial commissions for the administration of workmen's compensation laws, must pass upon matters of a *quasi* judicial character, such as the valuation of property, the reasonableness of rates, and the question of whether an injured workman is entitled to compensation. Not only this, but there has been a tendency in recent years to vest a greater and greater degree of rule-making power in administrative bodies, so that in Ohio, New York, and a number of other states some provision must be made for the adoption by administrative authority of a body of subordinate legislation, power to enact which has been delegated by the legislature. This is true, not only of the department of labor, but also in many cases of departments of health and of agriculture, and of other bodies within the state government. These *quasi* judicial and *quasi* legislative functions are of necessity closely related to large administrative functions.
>
> "How should these functions be performed? It has not been uncommon, even

in the states that have gone farthest in the way of an administrative reorganization, to leave commissions with overlapping terms for the performance of functions with respect to civil service, public utilities, labor, and taxation. These functions must be performed, and to some extent it is desirable to have a group, rather than an individual, perform certain parts of them. In the Illinois reorganization, the public utilities commission, tax commission, and industrial commission are substantially independent, and are placed within the departments of trade and commerce, finance, and labor merely for administrative purposes; in 1927 the parole board was given a similar independence, though the supervision of paroled persons remains in the department of public welfare. The Ohio reorganization of 1921 definitely seeks to vest in the heads of departments the administrative work of the commission, and makes the heads of the departments of commerce, finance, and industrial relations *ex officio* secretaries of the public utilities commission, tax commission, and industrial commission, respectively."

DR. Dodd points out in the quotation taken from his book that both the Illinois and Ohio reorganization plans contemplated placing responsibility and authority for the administrative work connected with public utility regulation in a single-headed administrative department, while the *quasi* judicial functions were to be carried on in each state by the utility commission. Thus, the plan adopted in these states was to tie the commission to a cabinet department.

It is interesting to see how this has worked out.

The experience of a decade now shows that the system adopted has not developed according to the original plans. Today in Illinois, for instance, the Illinois Commerce Commission is practically an independent agency and the extent of control exercised over the commission by the department of trade and commerce is extremely meagre. The budget for the commission is prepared by the officers of the commission and it makes its own recommendations for its appointments. The commissioners under the administrative code are appointed by the governor and not by the director of the department of trade and commerce. As a matter of fact, about the only connection at present existing between the department and the commerce commission is that all warrants are sent through the offices of the department. The department's control over

¶ "ONE *of the most serious problems in connection with state administrative organization is that of the* QUASI *judicial and discretionary functions to be performed by the state. . . . How should these functions be performed? It has not been uncommon, even in the states that have gone farthest in the way of an administrative reorganization, to leave commissions with overlapping terms for the performance of functions with respect to civil service, public utilities, labor, and taxation. These functions must be performed, and to some extent it is desirable to have a group, rather than an individual, perform certain parts of them.*"

—DR. W. F. DODD

the commission is largely limited by a section of the law (passed after the code was adopted) which provides that the regulatory act "shall be administered by the Illinois Commerce Commission . . . without any direction, supervision, or control by the director of trade and commerce."

ONE of the Illinois state officers in commenting on the Illinois plan said as follows:

> "In regard to the question as to what the advantages are in having the commission which regulates public utilities under an administrative department rather than having an independent commission, I am not able to state that I see any particular advantages.
>
> "When the Illinois Code was adopted it apparently was deemed best to have every commission under some administrative department. Later, so far as the Illinois Commerce Commission was concerned, practical independence was given to this commission by a new law."

OHIO has had much the same experience. Although the administrative code adopted in Ohio in 1921 presupposed that the director of commerce should exercise administrative control over the Ohio Public Utilities Commission, today there is little actual control exercised by the administrative department over the commission. An active state officer reports that while the director of commerce is *ex-officio* secretary of the commission,

> " . . . the work is actually done by the superintendent of investigation. The original idea was that he should have an active relationship to the commission, but the practice did not work out that way and the statute now carries the public utilities commission simply in the department of commerce for the purpose of the administrative organization rather than because of any active control by the director."

Hence, both in Illinois and Ohio, the commissions in recent years have practically assumed an independent status, and the reorganization idea of tacking the commission on to an administrative department has proven to be better in theory than in operation.

A MORE interesting governmental reform so far as the state organization for regulating public utilities is concerned, was the adoption of an administrative code by Washington in 1921.

Under this act the state established as one of its departments a department of public works, headed by a director appointed by the governor, under which regulation of utilities was placed. This was a unique step as it marked the first move in the history of this country to center state utility regulation under one individual.

It was the beginning of the movement to substitute single-headed agencies for the commission type of organization.

In Washington the director of the department of public works is solely responsible for all regulatory work. He appoints a supervisor of transportation and a supervisor of utilities who conduct the administrative work of their respective sections under the direction of the head of the department. In this way Washington has centralized responsibility to the utmost. However, in the settlement of judicial questions concerning rates and service the plan utilized is as follows:

> "The director and supervisors function in a *quasi* judicial capacity in the holding of all formal hearings and the entering of formal findings and orders. The director or one of the supervisors, or an examiner of the department, may hold hearing and thereafter findings and orders are issued and signed by all three members. Acting in a *quasi* judicial capacity two

How State Governments Are Being Altered to Conform with Business Principles:

OVER *twenty-five states have reorganized their governments since 1917 with the purpose of:*

A. Making the governor the real rather than the merely nominal head of the state;

B. Replacing commissions by departments headed by appointees of the governor and responsible to him.

signatures of the board to an order are considered sufficient, which is the practice when one of the members is absent. Parties to a proceeding desiring to do so, may apply and it is the duty of the department to grant a full board hearing and issue order *en banc*.

"The purely administrative work is carried on by each separate division and the board is only utilized in cases requiring a *quasi* judicial decision. However, administrative work of the supervisors is perused closely by the director that the activities of the supervisors are proper in his judgment and in accord with his policies. Important administrative matters are discussed and receive the consideration of the full board."

It will be seen that while Washington went to the limit as far as executive control is concerned, it still retained the board system for the adjudication of rate and service cases.

NATURALLY, the question arises as to what the benefits are under this system of organization. This has been answered by one of the officers of the Washington state government who states that "the advantages are: first, one person is accountable to the governor rather than three; second, the work of the department is segregated which results in efficiency in the specific lines of endeavor."

Observers of the efficiency with which regulation is carried on in Washington consider the single-headed type of organization superior to the commission type. They point out that *quasi* judicial matters receive board attention while the general administrative work is centralized in one responsible individual, thereby eliminating diffusion of responsibility.

IN the whole movement to inject definite lines of authority into state government no one group has taken a more definite stand concerning the type of organization best suited to carry on state regulation of utilities than the public administration specialists. The recommendations made by the National Institute of Public Administration (New York Bureau of Municipal Research), an organization composed of specialists in the various fields of government, in the various surveys conducted by it amply illustrate the attitude of this group.

As far back as 1923 in a survey of the state government of South Dakota, in discussing the railroad com-

mission these investigators wrote as follows:

"The cost of the overhead administration of the public utilities work in South Dakota could be considerably reduced and yet carried on just as effectively by constituting a bureau of public utilities under the control of a single appointive head. The work of the bureau would be organized into three or four divisions each directed by a single head. One of the members of the present commission might be appointed head of the bureau. He and two of his division chiefs would constitute a public utilities board that would handle all of the *quasi* judicial work of the bureau. This would eliminate two members and the secretary of the board."

A year later in the Nevada state survey the New York bureau stated that:

"There is no need for a commission of three members to supervise the public service work in Nevada. A single commissioner could do the work effectively. This is not without precedent. In New York state, and especially in New York city, a single commissioner has handled successfully public utility regulation that is far more complex than anything presented by the state of Nevada."

THE clearest statement, however, was made by the New York Bureau of Research in its survey of Virginia in 1927, undertaken at the request of Governor Byrd. At that time the bureau wrote as follows:

"The regulation of corporations in Virginia, in so far as such regulation comes within the control of the state government, is the principal function of the state corporation commission. This commission was organized in 1902. It was then one of the few state rate regulating bodies in the United States. Since that time, however, very important changes have taken place in the power of the states to regulate transportation companies, with the result that the corporation commission, as now organized, is no longer a satisfactory piece of state machinery. It is unnecessarily cumbersome and inefficient in dealing with the new kind of work which needs to be done. There has also come about a very important change in the method of getting at the facts in dealing with transportation, utility, and public service companies. A generation ago this work was judicial and deliberative and the evidence considered was presented by counsel representing the corporations on one side and the state government on the other. Under present conditions, practically all control over transportation has been taken over by the Federal government so that a state, if it is felt that it cannot depend upon Federal agencies, must proceed to protect its citizens in these matters, through the collection of facts with the aid of a staff of utility experts, engineers, and accountants, and the presentation of this material to the Federal authorities. This is an administrative task for which a commission is unsuited. Practically all of the remaining work of the commission is of a similar character. The granting of charters and amendments is not a matter requiring board action. The preparation of tax rolls requires no commission. The investigation of service complaints is purely administrative. The issuance of certificates to motor carriers is 99 per cent research and 1 per cent deliberation. The "blue-sky" functions do not require deliberative action; they require the careful study of ascertainable facts, and when the facts are known, the ruling is just as easily handled by one man as by three. The present method of handling the insurance companies and banks, with a single commissioner in charge of each, shows that these functions do not need a commission for judicial and deliberative action. And even the fixing of rates is now primarily a matter of research and valuation, and not of judicial deliberation.

"It appears, therefore, from an examination of the work of the corporation commission that the great bulk of the work is strictly administrative, and only a small part is judicial and deliberative."

THE bureau then proceeded to recommend that there be established a department of corporations headed by a single officer appointed by the governor. An inter-departmental board of three members was recommended to act on *quasi* judicial cases.

These quotations, picked at random from many surveys made by the National Institute of Public Administration indicate the trend of thought on the part of specialists in government administration.

State legislative investigating commissions have also made similar recommendations. A typical quotation from one of these (New Mexico)

written nearly ten years ago reads:

"1. We recommend the immediate repeal of Section 1 to Section 12 of Article XI of the Constitution of the state of New Mexico creating the state corporation commission. We believe that experience has already proven that the commission is not an effective instrumentality for public good and that the expense involved in its administration is utterly unjustified considering the results attained.

"2. The passage of laws creating one public utilities commissioner with such powers relating directly to the control of public utilities within the state as may be deemed necessary after a careful analysis of the question."

THAT such recommendations for what might be termed a radical overhauling of the present organization of the public service commissions have not been confined to the opinions and writings of governmental "efficiency" experts or investigating committees alone, is evidenced by the stand taken by the recently elected governor of Oregon. One of the main planks in the platform upon which Governor Julius Meier was elected in the last general election of that state was that of abolition of the Oregon Public Service Commission. Following the same line of reasoning which has prompted numerous reorganizations, Governor Meier in January, 1931, in his inaugural message to the legislative assembly of Oregon, spoke as follows:

"Regulation of public utilities is one of the most important functions of state.

"In this state it involves valuations running into hundreds of millions of dollars, the fixing of rates and charges collected from the public running into tens of millions of dollars annually, and supervision over many of our largest and most important business enterprises.

"Transportation companies, power, gas, telephone, and other public utilities touch the health, the comfort, convenience, and purse of almost every citizen. The rates they are permitted to impose and collect are almost as widely distributed as public taxes.

"Holding companies, interlocking directorates, and other corporate devices have been and are being used to confuse financial operations, outlays, earnings, and other phases of public utility management, and add to the difficulties of rate making and regulation generally.

"At present in this state there is no real competition among public utilities even though engaged in the same line of business. In fields where two or more utilities offer the same type of service, competition is effectively prevented by regulation of the public service commission and by agreement between the utilities, or both.

"Since 1911 the regulatory powers in this state have been vested in what is called the public service commission.

"The underlying purpose of creating the commission was to provide a sufficient instrumentality to represent the people in securing adequate service at reasonable rates. The necessity for such an instrumentality arose out of the fact that the public is not organized or equipped to meet public utilities on equal terms in controversies over rates and service.

"With the personnel of this commission I have no quarrel, as the regulatory machinery under which it operates has imposed upon it a task impossible of performance.

ABOLISH PUBLIC SERVICE COMMISSION

"Because regulation as it now exists in this state has proven an utter failure, I recommend abolition of the public service commission as now constituted and the creation of a department of public utilities to consist of a single commissioner, appointed by and removable at the discretion of the governor, and with a salary

¶ "A WELL-TRAINED *and experienced person might easily administer the provisions of the regulatory law much more capably than three or even five untrained persons who, by reason of the system under which they serve the state, are necessarily entangled and closely allied to the political machine and arena.*"

adequate to secure the services of a man of experience and first-class ability.

"In addition to being vested with powers which the public service commission may now exercise, such commissioner should be charged by law with the specific duty of representing the public in all controversies with utilities affecting rates, valuations, and service, and his chief duty should be to protect the public on any and all occasions to the end that the people may obtain adequate service at fair rates.

"Such commissioner should also have supervision over the issuance of all stocks, bonds, securities, and obligations by utility companies, all consolidations, mergers, purchases, and sales of property by them, except in so far as jurisdiction concerning such matters may be vested in a hydro-electric commission concerning projects constructed or operated under license issued by such commission."

A BILL designed to carry this recommendation into effect was introduced in the Oregon legislature by Representative Arthur W. Lawrence and has since become a law. It provides for complete control and responsibility in one officer so that appeals from a decision of the department head go directly to the circuit courts.

This action stamps Oregon as the first state to entirely wipe out the system of commission regulation and completely throws overboard the idea that utility regulation is a governmental function to be vested in a commission type of organization.

The most serious criticism of Oregon and of this present "tendency toward the use of single individuals for *quasi* judicial or *quasi* legislative work" can be met and has been met by the statement that in all cases of this nature opportunity for judicial review is provided. Dr. Dodd has stated that under these conditions "decision by one individual will not result in abuse."

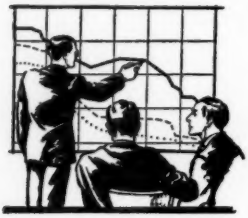
Now not only has the proposal been advanced to substitute the one-man type of organization for the present commission or board system on the grounds outlined above, but the change has been advocated for a far different reason. But a few months ago, Governor C. Ben Ross of Idaho in his message to the legislature of Idaho spoke as follows:

"There is a growing dissatisfaction with the results obtained in the operation of the public utilities under our present public utilities commission. The questions presented to the commission are of grave importance and affect the very existence of our people. The proper disposition of the questions presented to that board require a wide understanding of rates, values, cost of improvements, and the general condition of the consuming public. The members of the utilities commission are underpaid when we take into consideration the importance of their positions. The salary of these offices should be such as to attract outstanding individuals to the office, but we are here again confronted with the danger of attempting to increase salaries and raise taxes, and it would seem that better results might be obtained for all concerned by reducing the utilities commission to one man and materially increasing his salary over the salary now paid to the individual members, and I recommend that this matter be given your careful consideration, and that it be thoroughly investigated by the legislature, with the view of strengthening the commission."

If the writer is correct a bill was introduced in the Idaho legislature providing for a one-man commission but it failed of passage.

THAT there is merit in the contention of Governor Ross is quite generally realized by most students of public utility regulation. Under existing laws it is almost impossible to draft outstanding men for public service of this nature: first, because in about one half of the forty-eight states commissioners must stand for election with all of the accompanying political drawbacks, and second, because of the small salaries now obtaining in most of the states. This is particularly true of most of the southern

In Actual Practice, the State Commissions Remain an Independent Agency



"In those states which have reorganized their state administrative organization and have placed the public service commission under a 'cabinet' department for administrative purposes, the public utility commission has continued to function in much the same manner as before reorganization. In other words, in actual practice the commission remains an independent agency of state government."

states. Whether or not the recommendation made by Governor Ross would remedy the present situation is, of course, a matter not yet known. While taking no definite stand on this point the writer for one can see that a well-trained and experienced person might easily administer the provisions of the regulatory law much more capably than three or even five untrained persons who, by reason of the system under which they serve the state, are necessarily entangled and closely allied to the political machine and arena.

A tabulation of salaries paid to public service commissioners in all of the states was published in the April 17, 1930, number of PUBLIC UTILITIES FORTNIGHTLY. It was there shown that in many cases salaries are so low that few lawyers, engineers, business men, economists, or other professional persons would be attracted to serving the state in the capacity of public service commissioners.

ALTHOUGH there may be considerable opposition to establishing a single-headed department as against the present system for carrying on utility regulation, there is much less opposition to the principle that appointment offers the greatest advantages as a method of selection of public service commissioners. In this connection the recent report of the United States Chamber of Commerce entitled "National Aspects of Water Power Development" is of interest as representing, not the governmental specialist's concept or theory, but the business man's attitude. Sections of this report read as follows:

> "With respect to the merits of appointing commissions, the same arguments pro and con are advanced as for most other political agencies. The prevailing opinion, however, appears to be that the important task in selecting commissioners calls for the widest possible separation from political influences through appointment for a fixed term with the terms of the different commissioners expiring at intervals; reappointment when good service warrants it; and original appointments based upon demonstrated ability and fairness.
>
> "In most cases the ballot has failed to enlist technical men for technical positions."

IT may not be amiss to draw some general conclusions concerning the development of the administrative machinery for carrying on state public utility regulations; these conclu-

sions are arrived at as a result of analysis of the experience of certain states and the evidence cited in this article. These conclusions may be summarized as follows:

1. In those states which have reorganized their state administrative organization and have placed the public service commission under a "cabinet" department for administrative purposes (Illinois and Ohio), the public utility commission has continued to function in much the same manner as before reorganization. In other words, in actual practice the commission remains an independent agency of state government.

2. In Washington, where regulation is carried on in a single-headed department, some observers report that from an administrative point of view the system has proven itself as sound and effective.

3. There is almost universal sentiment among those who have given the subject close study that, no matter whether there is a single-headed or commission type of organization, appointment by the governor is preferable to election. The short ballot advocates see no reason why public service commissioners should be elected.

4. There is a trend among governmental experts and in some cases among state officers to suggest the substitution of a single-headed regulatory agency for the present system of commission regulation. The movement has gained but little headway as yet if measured by legislative results but, as is the case with any vital or important governmental reform, such changes do not occur with rapidity. In this connection it may be well to point out that the city manager idea in municipal government was over a century in arriving.

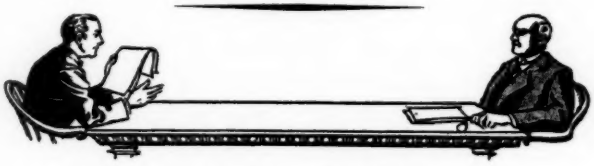
5. There is a definite movement to transfer such functions as banking regulation and supervision, tax and assessment administration, and general corporation regulation from the public service commissions to other appropriate state agencies. On the other hand, several states (Virginia is an example) have centralized practically all regulation of corporate business in one commission. From the evidence presented it appears that the state public service commission should limit its field of activity to regulation of utilities and common carriers and divorce itself from other phases of corporate regulation. In small states conditions may warrant, however, a consolidation of the work involved in banking supervision, insurance supervision, and charter granting and recording into one agency.

6. Salaries now paid public service commissioners are generally not high enough to attract the type of personnel so urgently required for this type of work. This condition obtains in all but the highly industrial states (New York, New Jersey, Pennsylvania, Illinois, and others). Until most state governments become aware of the necessity for highly trained persons in this field proposals of the nature advanced by Governor Ross of Idaho can be expected from time to time.

7. The action of Oregon and the working out or development

of its plan will be noted closely by other jurisdictions. Students will be interested to ascertain whether or not utility regulation in that state will be closely tied into the policies of the governor, whether a greater number of cases will be appealed to the courts than in previous years, and whether the efficiency with which regulation is carried on will be changed or improved perceptibly.

With these summarizations in mind, it will be interesting to watch the developments within the next few years. This arises from the fact that work performed by the public service commissions is coming to be looked upon as one of the most important of all state functions—a function which is being headed for a great political controversy in many jurisdictions.



A Code of Ethics

(Adopted by the Oklahoma Utilities Association)

Public utilities are natural monopolies and as such, should be subject to public regulation as to all matters touching public interest. If public regulation is to be successful, it must be intelligently administered, but it cannot be so administered by an uninformed public; therefore:

1. *It is the duty of all members of this association to avail themselves of every opportunity, and to seek opportunities, fully and honestly to acquaint the public with all matters relating to the operation of public utilities.*

2. *Public utility managers are trustees, whose duties are to safeguard and protect the interests of the public, the employee, and the investor and the acts of such managers should be influenced by a full realization of these responsibilities.*

3. *It is the duty of every member of this association to strive in every way to promote peace and harmony among its members, and to uphold and support every honest policy or aim of all public utilities, and to discourage and condemn such policies or aims as are unjust or unworthy.*

4. *No business transaction is, in the final analysis, satisfactory or profitable to either party to the transaction, unless it is satisfactory or profitable to both, and every transaction should be carefully analyzed with this principle clearly in mind.*

5. *It is the duty of every public utility to take an active part in public affairs, in the interest of honest, efficient government, in order to enable each utility to correctly learn the needs of its community, and to build intelligently to keep pace with its growth.*

6. *Public utility enterprises are honorable and worthy and they afford distinct opportunities for individuals to serve society effectively.*

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

THOMAS F. WOODLOCK
Financial writer.

"Prudent investment imposed after a great rise in prices is simply immoral; happily also it is illegal."

C. D. MORRIS
Business writer.

"We must maintain the service of the railroads if our present standard of living is to be maintained."

SAMUEL S. WYER
Consulting engineer.

"It is significant that the members of the commission that Roosevelt appointed to carry out his St. Lawrence waterway program are without an hour's experience in power work."

JOHN SPARGO
Lecturer and writer.

"Once make the government responsible for industry it will follow with the sureness of the multiplication table that you make serfs and slaves of the citizens of that government."

EDWIN GRUHL
Vice president, National Electric Light Association.

"One of the difficulties confronting the electric light and power industry at the present time is that the criticism to which it is being subjected comes mainly from irresponsible sources."

E. W. HOWE
Editor and writer.

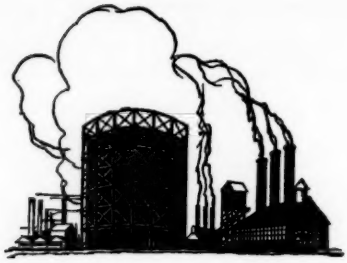
"At present, my favorite hero is Alfalfa Bill Murray, governor of Oklahoma. He has actually secured reductions in gas, electric light, water, ice, and telephone rates, and engaged in no constructive statesmanship."

R. E. MCDONNELL
Engineering consultant.

"It has been my experience, after rendering consulting experience to over 600 cities extending over thirty-four states, that the best governed cities, with few exceptions, are those with the most municipally owned utilities."

GIFFORD PINCHOT
Governor of Pennsylvania.

"A square deal to public utilities does not require or include the unbridled power to make such profits as they please, to control such public service commissions as might otherwise impede their march to complete commercial dominance, or to own and operate such political organizations as they may deem necessary to perpetuate their graft."



A Job Instead of a Dole

Another answer to the query: "Who will pay the utility employee's pension?"

FEW contributions to PUBLIC UTILITIES FORTNIGHTLY have aroused the widespread discussion of Herbert Corey's article about pensions in the September 15, 1930, issue; in it the author raised the pertinent point as to whether the utility employee's pension should be paid by the ratepayer, the taxpayer, or by the stockholder, and he cited the ruling of the Interstate Commerce Commission in the case of the railroads' pension systems.

BY HERBERT COREY

A DOUBT had arisen in my mind. Not much of a doubt. No larger than a man's hand. But a doubt for all that. Therefore, I called on my old friend Jimmy Dugan. Once before I told (in PUBLIC UTILITIES FORTNIGHTLY) of Jimmy's sturdy belief that the pension the railroad is paying him is on a firm foundation. When I suggested that the road might not go on paying, Mr. Dugan told me I lied. A fine man, Jimmy.

"What is it now?" asked Mr. Dugan.

We sat by the cook stove in the clean little kitchen. The three pretty daughters were away on their own affairs. Mrs. Dugan had gone to church. Mr. Dugan was smoking his clay pipe.

"Jimmy," I asked, "were you grateful to the railroad when you were retired at sixty on a pension of $40 a month?"

Mr. Dugan briefly removed his pipe:

"Th' divils," said he.

COLONEL John Stilwell was responsible for my call on Mr. Dugan.

Colonel Stilwell has an idea. To be more precise about it, he is the custodian of the idea. The idea is owned by the Consolidated Gas Company, a large, successful, presumably hard-boiled company that sells gas and things to the people of the city of New York. There was a time in its earlier stages when it was like almost every other public utility company in the United States in its relations with the public. So far as I know they were all alike. Their officers looked on the public like Stone-

wall Jackson's men did on the Shenandoah Valley. The public's voice used to crack when it saw a gas man.

Then the Consolidated Gas Company right-about-faced. An indignant patron, if any, is practically a house pet nowadays. He gets what he comes for, too, if it is in the shop. Not merely warm words.

This new and considerate attitude broke over into the company's relations with its employees. It is possible—even probable—that the change did not come about because the company suddenly swelled with love. Stripped of the fig leaf of convention, the average company is kindly to the public and good to its employees because it pays. Being a rather ornery person in private life myself, I do not at all believe in the noble sounds that issue from the lips of corporate presidents when they speak in public. I have heard them speak in private. They are being good because goodness in business pays.

And that is all right. That is the kind of business man I like to do business with. My mother used to buy real estate through a tough old man who chewed Anchor plug and got drunk and used to say that the only reason why he was honest was that honesty paid. She made money.

So the Consolidated Gas Company developed an idea for the treatment of its aging employees. That is the idea of which Colonel Stilwell is the engineer.

Not many things are more important in industry today than the question of retiring aged employees on some form of pension. Every leader of business I have talked with or heard quoted admits that retirement pensions are inevitable. They may not regard them with enthusiasm. Neither do they love their dentists. They may say that workmen who demand that their employers go on paying them after they stop work are edging toward socialism. They may be bitter about the intellectual reactions of men and women who shoot their pay on radios and silk socks and have nothing left to fight the frost in sixty north. No matter:

"Pensions have come to stay," they will tell you. "No getting away from that fact."

The small manufacturer may escape the payment of pensions. All he has to do is to pull down the lid and lock his door. But the larger industries and more especially the industries that bear the public utilities label must accept the retirement pension as an inevitable burden of the future. If they did not the state would soon be taking a hand. Even now the American Federation of Labor favors state pensions for the old. Many a small-timer politician is thinking over state pensions and the consequent patronage. It is anything but silly to suggest that a compromise may be suggested one of these days (the days being what they are it would run like fire in dry grass) by which the state shall regulate the pensions to be paid the retired workingman by his employer, and the regulators are convinced to a man that America's success is due to the fashion in which they hang to America's ankles. We are not getting away from Colonel John Stilwell and the Consolidated Gas Com-

pany and the aged but sturdy workman. We are merely creeping up on them. The Consolidated Gas Company's idea is simply this:

"OLD men are worth their pay as much as young men are. Our old men shall continue to get their pay until they are unfit. Not until then will we pay the retiring old man a pension. We will then pay him the pension we think he should have in order to live happy ever after."

This was shocking to me. Nothing short of shocking. I have been brought up on the idea that when a man is sixty years old society drowns him in the bucket. It is true that lawyers and bank presidents and doctors keep on going strong long after they are sixty, but industry has insisted that no man can handle a hammer or pull a lever to its entire satisfaction after he has reached this venerable age. Having been chewed up he is spit out:

"All nonsense," said Colonel Stilwell. "The Consolidated Gas Company can prove that its old men are just as valuable as its young men. We keep them in harness. Sometimes I think they are more valuable."

There is heresy for you! There is a deliberate flaunting of tradition. There is, one almost thinks, a modicum of common sense. Colonel Stilwell is not trying to instruct other companies or industries in what to do with their old men. He only says that they come in mighty handy in the gas business.

"They may not be quite as noisy," he admits. "An old man rarely thinks of a genuinely new way of getting a customer sore. They may lack that fine energy which leads the young men into running several miles due south and then running east, west, and no'-by-east. They do not come in to the front office with as many suggestions as the young ones do. They brought the same suggestions in when they had just turned twenty. They do not do as much work as the young men, perhaps, but . . . ."

Here is the stinger—

"They do not make as many mistakes. And the mistakes are what hurt."

I SAID that the Consolidated Gas Company's plan was paternalistic. New ideas always make me a little incoherent at first. If I had time to think I would not have used the word "paternalistic," for that is fighting language in a corporation office. I do not know why, precisely. I have never known why. But I do know the fact. Colonel Stilwell developed an admirable muzzle velocity.

❦

¶ SICKNESS *and pension provisions are a proper charge against the operating expenses of a public utility. The method to be adopted in making such provision is fairly open to the discretion of the officers of the company and, in the end, it makes very little difference how it is distributed among consumers.*

—DECISION OF THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, IN CONSOLIDATED GAS CO. *v.* NEWTON, P.U.R.1920F, 483.

"We keep them on because it is good business," said he. "They are worth the money we pay them."

Some intelligence is needed in the officers' quarters, of course. Now and then a foreman will run afoul of an old man. He may also run afoul of a young man, and in that case he brings the usual charge. The young man is thumb-handed, he walks on his insteps, his brain was dulled by an accident in childhood. When a foreman wants to get rid of a man he is fertile in reasons. But if an old man is involved in an argument the foreman can add the otherwhere's damning indictment:

"He is too old. He won't do."

When that happens Colonel Stilwell makes a personal investigation if necessary. Sometimes the old man is too old in fact. The Consolidated Gas Company does not pretend to be so soft-hearted that it will keep old men on the active payroll when they have become unfit. But it often happens that just a little smoothing away of friction is needed. Sometimes the old man is transferred or his work is changed. The important point is that experience has proven that a man does not become unfit merely because he is sixty or sixty-five or seventy years old. One may be too old at twenty. His neighbor of seventy may have the heart of a boy.

"But does this plan pay?"

"You bet it pays," said Colonel Stilwell.

THAT question had been asked because I had been talking with one of the shining lights in life insurance. He is an intelligent, kindly, sympathetic man. I am very certain that he believes what he told me:

"It is far cheaper to pension a man off at sixty-five than to keep him on the payroll," he said. "I know of a railroad which is keeping eleven hundred men on the payrolls long after they should be superannuated. That road is paying—perhaps twice over—what it would cost to retire those old men on pensions."

Stilwell rebuts vigorously.

"We get our money's worth in work," he said. "Something more than that. We get our money's worth in happiness."

It was that line that led me to ask Jimmy Dugan if he were properly grateful to the kind gentlemen who pensioned him at forty dollars a month when he was sixty. Mr. Dugan said heartily:

"Th' divils!"

THE men who might have been retired at sixty or sixty-five prefer to keep on working, said Colonel Stilwell. No man ever looks forward happily to the prospect of being retired, unless he has enough money laid by to enable him to live just the sort of a life he wants to live. Not many employees have that much money. A man who has worked all his life is just a broken bone when he has nothing to do all day long. The Consolidated Gas Company's men prefer to work on until the weaknesses of age interfere. Then they retire contentedly.

That keeps up the *morale* in the force, of course. Let us use a little common sense about this. An old man facing retirement knows perfectly well that the company will not allow him as pension the full pay he

has been getting. No company ever does. When he is pensioned, then, his income is materially lessened. The one way in which to defer that lessening is to be pleasant as well as efficient. His good temper has its effect on the good temper of the others. Of course.

"We get our money's worth in work and happiness," said Colonel Stilwell.

Once the men are retired the Consolidated Gas Company pays them in pensions whatever is needed to make their lives comfortable and happy. This is not to be taken literally, of course. If a pensioner's idea of a comfortable and happy life is an extravagant one he may be disappointed. The point is that the pensions "are somewhat elastic," and are granted not only on the fixed rate base but on the human element involved. The actuarial cost of getting rid of a man at sixty-five is $3,800. That is to say, a company that had not been building up an annuity for that old man would be forced to pay over $3,800 in cash to obtain for him a $40-a-month pension on his retirement at sixty-five. Under the plan of the Consolidated Gas Company that man may not have been retired at sixty-five. If he has worked on to seventy or beyond—as some of the men have—the cost to the company is reduced by whatever period he has worked beyond the usual retiring age.

"Two men who have worked side by side for the same number of years, doing the same work at the same rate of pay, may be retired on the same day on widely different pensions. We take into account their domestic surroundings, their special relations, the planes on which they have lived. It would be throwing away money to give one man more than $40 a month, for instance. Another would be acutely miserable on so small a sum."

That still sounds paternalistic to me. But I withdraw the word.

"We do not penalize the man who has been thrifty all his life. If he

has saved where his comrade has spent we do not deprive him of the pension to which he is entitled. Such a man is apt to need more in his latter years than does the man who has spent freely as a young man. His tastes are different.

"The retirement pay is made to fit the man instead of the job."

In my interest in the Consolidated Gas Company's plan to give the retired employee the pension he needs—within certain limits, of course—rather than the sum established by the rigid factors of years of service and rate of pay—I find that I have completely forgotten to say anything whatever of the sick benefits and insurance protection the company gives its employees. These are generous to a degree, as might be assumed from the manner in which the superannuates are treated. But they lack that news value which is to be found in Colonel Stilwell's pronouncement that the old man has his value.

"Sometimes he rates higher than the young man at his elbow on the same job."

It is evident that no comparison of costs between the Consolidated Gas Company's plan and the hard and fast rule of dropping an employee through the trap at sixty or sixty-five is possible. The Consolidated Gas Company may work a man with satisfaction on both sides until he is seventy. One man of seventy-two is, I believe, giving excellent service. Every day a man stays on the payroll and is able to deliver the goods he is paid for is one day of annuity the Consolidated Gas Company is not called on to buy. Furthermore the company is not committed to any definite rate of retirement compensation.

"We pay a man what we think he needs," said Colonel Stilwell.

That is indefinite enough to suit a Congressman in a close district. It appears, however, that this is actually what is done. The retired employees seem to be content. It is perfectly true—I like to be fair—that a retired employee who was not content would probably keep his tongue between his teeth. If he suspected himself of being about to complain he would go out and take a long walk. All, all alone.

"THIS plan works to your satisfaction with the comparatively small force of employees of the Consolidated Gas Company," I said. "Would it be operable in a much greater force? One, for example, like the Union Pacific Railroad?"

Colonel Stilwell could not see why it should not be. The same factors apply to aging workingmen everywhere. They are happier at work than they can be on pension. The average pension, according to Mr. James E. Kavanagh of the Metropolitan Life Insurance Company, is $40 a month. That is not enough to keep a husky middle-aged gentleman idle and happy. If he gets board and room for a dollar a day—decent board and room—he gets a bargain. That leaves only $10 each month for the other necessities of life. My friend Jimmy Dugan was fortunate in that he and his wife and his three pretty daughters had by some miracle acquired a small independence. For all that there was a full flavor in Mr. Dugan's words when he spoke of the kind gentlemen

who had retired him on a $40 pension when he was sixty years old.

The retired workman who has a wife to care for on $40 a month is in a tough spot. Children are not the dependable assets nowadays that they used to be.

If that retired workman at $40 a month has not carried a comfortable life insurance policy—which as a class he has not—his wife is in a tougher spot on the day of his death.

Yet it will be conceded by most that the company which retires its superannuates on pension at sixty or sixty-five years of age has done its full duty by them. The presumption is that the pension is an addition to the other resources of the man who has been taken off duty. In fact, as every one knows, the pension is apt to be his sole reliance. The plan of retirement at a definite age, rigidly adhered to, has its advantages for the company. The cost line can be charted by any actuary for any period. The company is not compelled to make use of men who have passed the peak of usefulness. No mental effort is involved. No one is called on to adjust them to their jobs or to fit them into new places.

At sixty-five they get the air.

THERE is a third plan for dealing with the retired workman. No doubt there are scores of plans. I know there are. Mary Conyngton of the U. S. Bureau of Labor Statistics, intimates that almost every corporation that has a plan at all for the retirement of its men has worked out its own plan. But it seems to me that they fall into three categories.

First, there is the rigidly actuarial, in which the workman is disposed of at a fixed age on a fixed pay. It is this plan that landed Mr. Dugan under a grape arbor when he would have preferred to be on the right of way with a pick.

Second, there is the paternalistic plan of the Consolidated Gas Company. I know the objection to that word "paternalistic." But let me have my own way. Its only for a little time.

The third plan is the one of which the American Telephone and Telegraph Company is the chief exemplar. The aging workman may be retired at sixty or sixty-five at the company's option. But now and then the company does not wish to retire such a man. He may be a pole climber extraordinary. He may be able to sit in a back office and think out financial problems. Perhaps he takes a twist of wire and a few glass tubes and works miracles. It would be silly waste to take such men away from their jobs; and the A. T. & T. is neither wasteful nor silly. But when the man is retired he goes out on a fixed rate.

And that rate is never sufficient to

¶ "THE *larger industries and more especially the industries that bear the public utilities label must accept the retirement pension as an inevitable burden of the future. If they did not the state would soon be taking a hand.*"

support that man in the style to which the A. T. & T. has accustomed him and the company knows it.

Therefore, he is urged to do a little something for himself.

RIGHT here is where the A. T. & T. plan, and the plans of other companies which are made on the same model, diverge from the plans in which all is done for the workman. It is made plain to the workman, and "workman" is an elastic term that covers every employee from vice president to line-man, that he need not save if he does not want to. No harsh words are used and there is never a suggestion that snowballs plus $40 a month are not nutritious enough to fill the dietary needs of a man of sixty-five. No one says:

"The man who has gumption enough to save his money probably has gumption enough to hold his job permanently with the A. T. & T."

Stock buying is made easy for the employees. This plan is really unique. While employees pay for the stock through payroll deduction in small amounts over an extended period as is the usual practice with most employee stock plans, telephone employees are buying shares which will not be issued until they complete their subscriptions. Under most company plans the stock purchased is stock which has already been issued and is repurchased by the company. The interesting point in this connection is that the employee subscriber is protected against fluctuations in market price during the period of completing his subscription by a provision that gives him the privilege of cancelling his subscription at any time while payments are still being made and receiving his money back with compound interest.

THERE are other protections for American Telephone and Telegraph employees. There are sickness, accident, and death benefits provided without cost to the employee, and life insurance which the employee may buy and pay for through regular deductions from pay. They are cared for in sickness in a generous way. I believe there is even now a young lady in a hilltop sanitarium who has been there for nearly two years fighting tuberculosis; when she has regained her health she may return to her desk. The effort is to protect the employee against the possibilities of misfortune during his active life, to provide him with an independence plus a pension when he has retired, and to guard his wife after his death by life insurance obtainable at a reasonable cost.

The employee need not coöperate if he does not desire. But his coöperation is welcomed. He is not urged to do anything, for he is a free moral agent. But the profit possible is set before him in plain figures at intervals.

"The plan is worth all it costs us," said Mr. J. C. Koons, vice president of the Chesapeake and Potomac Telephone Company. "We get a stable force of a higher quality than we could hope to get if our relations were merely those of the buyer of labor in the market and the man who sells us his hours. A large proportion of our employees accept the opportunities we offer them."

No A. T. & T. man need say at sixty what Jimmy Dugan said.

As Seen from the Side-lines

NEW YORK reasonably could be expected to supply the powder for a fine old-time explosion on the regulation and control of public utilities.

* *

SHE has the population. She has the wealth. She has the prestige of greatness and of size. She has her myriad of attractions with their pristine glamors. She has an abundance of water power, unexcelled in its proximity to market.

* *

SHE has, as the not least of her citizens, Mr. Alfred E. Smith, who ran for President of the United States and polled more votes than any Democrat before or since.

* *

SHE has as her governor today Mr. Franklin D. Roosevelt, than whom there is no more formidable aspirant for the toga of party leadership worn by Mr. Smith, and not yet by him relinquished.

* *

So long as you have a Mr. Smith or a Mr. Roosevelt and a state of New York, you are bound to have a water-power issue that involves the regulation of public utilities and occupies an elaborate space in public discussion.

* *

THE most expert commentator on public events that I know said recently in a reminiscent mood that Mr. Smith, in his last campaign for the presidency, seemed well informed only on two subjects of national interest, prohibition and power.

* *

YOU will recall that in his Denver speech he referred to the so-called power trust and he expounded as a national principle the same doctrine that he laid down while governor of New York; that the water-power sites are clothed with a public interest and a public ownership which the people can and should put into effect whenever their desires so direct.

* *

MR. Hoover contented himself with his earlier preachments on the necessity of rugged individualism and there he stood, while Messrs. Work, Good, Slemp, and the others went out and cornered the convention delegations which gave him a party nomination that, under the circumstances, was the equivalent to an election, if not a word of debate had been spoken by himself or Mr. Smith.

* *

GOVERNOR Roosevelt may be fairly said to have derived his philosophy on this subject of water power and public regulation from two such diverse and socially antagonistic persons as Woodrow Wilson and Alfred E. Smith. The gentlemen from New Jersey approached it from the viewpoint of the doctrinaire, the one from New York with the hammer-and-tongs conviction of actual experience.

* *

THERE is in the process of being consummated in New York one of the greatest industrial and economic mergers which the world has seen and which would cause Theodore Roosevelt to rub his eyes and wonder if it could be true.

* *

THE public service commission is being asked to permit a connection of the Niagara Hudson system and of the Edison interests in New York city. With such a connection afforded there will be a unity of power interests stretching from the St. Lawrence on the north to Philadelphia and Conowingo on the south, embracing the richest and one of the most populous regions ever developed by man.

* *

OBVIOUSLY it will afford water-power electricity to the great industries and mercantile establishments. It will sup-

ply reserves of power for future populations and for prevention of those cessations of service which disgruntle the patrons of any individual plant. It should provide those economies which are supposed to be the products of centralized authority and massive consolidations.

* *

On the other hand, there arises a bumper crop of foes, even in these times when it seems that about everyone is concerned in making a living for himself and not too deeply concerned in the abstract principles of government. These gentlemen say that water power belongs to the people; that it ought to be developed and distributed by the people for their convenience, not for the "private profit of a few." Once private interests acquire these sites and rights, the public could never reclaim them, they say. It gives organized wealth a stranglehold upon the industrial and political life of the country, they argue.

* *

In rebuttal, the other side insists that private capital alone has shown the industry and intelligence to develop them. Also, they ask, "Haven't you got the public service commission of New York to protect you in case the service got bad or the rates got excessive?" And, of course, that leads ker-smack into the question of whether public service commissions have their ears open only to the sly suggestions of the vested interests or whether they are conducting themselves with the meticulous and stubborn independence of pre-war days.

* *

Mr. Smith may or may not want to run again. I don't know, either way. Some say he has had enough of the political arena. Others pretend to know he believes he has a good chance to win in 1932. Still others assert they know him to believe that the public believe his one shot at it ought to satisfy his personal ambition.

* *

You will hear a great deal about Mr. Roosevelt not being a candidate for the nomination. That is all the bunk. He not only wants it but is struggling to get it. He is so far in the lead now that he will be a difficult man, a mighty difficult man, for any other deserving Democrat to overhaul.

* *

It will be interesting to watch Mr. Roosevelt's attitude on this new situation which has developed on his own doorsteps in New York. The Democratic party (meaning that section of it which gets itself elected delegates to national conventions) is not today the liberal party which adopts the public-ownership philosophies above set forth. The Democratic party is financed, at preëlection times when delegates are needed, by the same manner of men and the same manner of interests that supply sustenance to the Republican party. There are tariff schedules to be adjusted, public contracts to be obtained, and possibly an ambassadorship or two to be collected; and these interests have got to be on the winning side, in one way or another.

* *

Mr. Roosevelt is smart enough, he has been in the game long enough, to know all this. The man-on-the-street doesn't abandon his pick and shovel and dinnerpail to trot out to Colorado or North Dakota looking for delegates for any presidential candidate. These campaigns cost plenty, and the funds are contributed for the most part by men who have plenty. And men who have plenty aren't likely to bring in delegates who would register themselves in favor of public ownership.

* *

It is said that responsibility makes the radical officeholder more conservative and the conservative officeholder more liberal. A man doesn't have to be an officeholder to undergo such a transformation. He may be only a prospective officeholder. Watch New York. You then can write your own ticket.

John T. Lambert

SPARKS

for the speaker's table

(Quips and cues for the utility man who is called upon to "say a few words" before informal gatherings.)

"Mother," said the small boy, "do they have electric plants in heaven?"
"No, dear," replied mother. "It requires engineers to build electric plants."

A man dashed into the station with only a minute to catch his train:
"Quick! Give me a round-trip ticket!"
"Where to?"
"Back here, you nut."

A chap was arrested for assault and battery. The judge asked him his name, occupation, and what he was charged with.
"My name is Sparks, I am an electrician, and I am charged with battery."
"Officer, put this man in a dry cell."

It must have been something of a blow to the father of six lovely daughters who, while reading a telegram from home announcing the birth of a seventh lovely daughter, looked up and saw the sign:
"If you Want a Boy, Call Western Union."

"Was the man your car ran over a total stranger?" asked the superintendent of the motorman on the limited.
"No, sir," replied the motorman, "one arm and both legs were cut off. He was only a partial stranger, as far as I could make out."

JUDGE (*in traffic court*)—"I'll let you off with a fine this time, but another day I'll send you to jail."
BUS DRIVER—"That is exactly what I predicted."
JUDGE—"What do you mean?"
BUS DRIVER—"Fine today—cooler tomorrow."

During a history lesson a teacher asked the class, "What happened in 1847?"
"Edison was born," promptly answered a pupil.
"Quite right. And what happened in 1851?"
After a long pause during which he performed laborious calculations in mental arithmetic the pupil ventured:
"Edison was four years old!"

A stranger to this land and language appeared at the ticket window in a New Jersey passenger station the other day and asked for a ticket to Buffalo, handing in a $20 bill.

"Change at Albany," the clerk said.

"None of that now," replied the stranger, "Oi want me change right here."

A teacher who was endeavoring to interest a class in practical matters, gave them a lesson based upon an advertisement from a newspaper.

A gas company had advertised for a meter reader and the teacher requested the boys to write an answer to the advertisement. One of them wrote:

"Dear Sirs: I have read your advertisement in the newspaper asking for a meter reader. I hate meter reading. Can't you get someone else?"

"And how much would you say this colt was worth?" asked the railroad claim-agent of the farmer.

"Not a cent less than $500!" emphatically declared that sturdy son of the soil.

"Pedigreed stock, I suppose?"

"Well, no," the bereaved admitted reluctantly. "But you could never judge a colt like that by its parents."

"No," the attorney agreed dryly. "I've often noticed how crossing it with a locomotive will improve a breed!"

The street car was crowded, but our hero, tired after a hard day's work, had succeeded in getting a seat, much to the annoyance of a militant-looking Amazon who was forced to stand directly in front of him. She vented her spite by depositing, from time to time, her entire weight on his foot. Finally, exasperated, the long-suffering fellow spoke up.

"Lady," quoth he, "would you mind getting off my foot?"

Waspishly, the lady retorted: "Why don't you put your foot where it belongs?"

Which was the last straw! "Lady," replied our hero, "don't tempt me!"

A lineman with a broken leg was taken to a hospital for treatment. After the leg had been set, the nurse asked him how the accident occurred. He replied:

"You see, ma'am, it was this way: I was stringing for the company and I only had one ground mole. He was up a big come-along, and she was a heavy one. I was pullin' on her and yelled to the mole to give the guy a wrap; instead he threw a sag into her, and that broke my leg."

"Yes," the nurse replied, "but I don't exactly understand."

"Neither do I," said the lineman. "The darn fool must have been crazy."

The railway tracks ran parallel with the fence of an insane asylum. A local train was doing some switching nearby, one of the brakemen flagging the rear end, when a male inmate peered over the fence at him and asked: "Are you working for the railroad?"

BRAKEMAN—"Yes."

INSANE ONE—"Do you work every day?"

BRAKEMAN—"Yes."

INSANE ONE—"Do you work when it is cold and rainy?"

BRAKEMAN—"Yes."

INSANE ONE (*eying the brakeman for a full minute*)—"Then you are on the wrong side of the fence."

What Others Think

The Problem of Unemployment; Its Relation to the Utility Industry

UNEMPLOYMENT threatens to undermine the foundations of our capitalist society. With excess food and clothing available in the world, hungry and insufficiently clad men unable to find work to buy these things are a sorry commentary on our economic and social organization. In addition to the human misery, however, there is not one industry that escapes the consequences of unemployment, either directly or indirectly. No industry can, therefore, afford to neglect the study of its share in the solution of the problem.

This is true even of the public utilities where employment is relatively constant.

The problem of unemployment challenges the initiative of the leaders of industry. It is clear that the solution cannot be found exclusively by governmental action. It cannot be solved by an academic discussion by sociologists and economists. Nor can a utopia with work for all men at all times be achieved by business men alone. Coöperation between the government, the academic mind, and the practical business leader is essential to investigate first of all the causes of involuntary idleness. Collaboration of all these agencies is needed to provide a solution. Effective action is predicated upon accurate knowledge of the causes of unemployment. The book "The Problem of Unemployment," by Professor Paul H. Douglas, provides such an analysis in excellent form. The business man will find here the results of painstaking research on unemployment, suggestive of ways and means of solving the problem in the future.

Professor Douglas was called upon by Swarthmore College to undertake this investigation of unemployment. Assisted in his research by Mr. Aaron Director, the authors have published a statement of the problem that will certainly appeal to the practical man in its clearness and manner of presentation.

WHAT is the extent of unemployment and how can it be measured? An index of unemployment has been devised that apparently gives a satisfactory picture of the situation. The causes of seasonal and cyclical unemployment are analyzed and means of diminishing their effects are discussed. For the public utility man, the study of technological unemployment will probably have the greatest interest. To the query "Will workers be thrown permanently out of employment by these improvements in machinery and in managerial efficiency," the conclusion is reached after careful analysis that "permanent technological unemployment is impossible." There is a transfer of labor from some lines to others. "The fears of permanent technological unemployment have been greatly exaggerated." The placement of labor and unemployment insurance are studied as means of mitigating the evils of enforced idleness. While the situation in the United States is of paramount interest, the authors have pertinently included a consideration of European experience in many of the phases of the problem and its proposed solutions.

By their quantitative and qualitative analysis of unemployment, by their estimate of the relative importance of the various causes of unemployment, the authors have accomplished a constructive and useful work on this fund-

amental problem now challenging us.
—DONALD ARMSTRONG.

THE PROBLEM OF UNEMPLOYMENT. By Paul H. Douglas, Professor of Economics, University of Chicago, and Aaron Director, Instructor in Economics, University of Chicago. Preface by Frank Aydelotte, President, Swarthmore College, New York: The Macmillan Company, 505 pages. $3.50. 1931.

The Two Extremes in Economic Viewpoints—Washington and Moscow; a Modern Political Iliad

"THE supreme intellectual challenge of our time, in the domain of social and political science, is that which has its polar centers set in Moscow and Washington, respectively. It is personified by Stalin on the one hand, and by Hoover upon the other. Behind each of these leaders and spokesmen there is a great tradition: Behind Stalin are Lenin and Marx, and behind Hoover are Lincoln and Jefferson. One seeks to subordinate the citizen to the state, the other to subordinate the state to the citizen. The ideal of the one is a state economy developed to the highest possible degree of efficiency and power, regardless of the despotism over and oppression of the individual necessary to that end. The ideal of the other is the highest possible degree of well-being and efficiency of the individual citizen and the individual family, and the conscious and consistent direction of the state to that end."

In this striking manner does John Spargo, "reformed" socialist, describe the present-day situation of world economy. To him the outcome of the economic conflict between Washington and Moscow promises to have just as lasting an effect upon the history of future nations as the result of the seige of Troy by the Greeks or the struggle beween Rome and Carthage.

THE object of Mr. Spargo's comparison of Moscow and Washington is to emphasize the fact that any useful consideration of the subject of government participation in business in the United States must be limited by our own conditions and needs. No achievement in Russia by Stalin or in Italy by Mussolini can be accepted as indicators of the way for us.

Mr. Spargo disagrees with those critics of our capitalistic state who keep repeating that we are unaware of or indifferent to its defects. He says that Mr. Hoover is as keenly aware of the ills incidental to our civilization as Stalin is as fully and as desirous for their removal. He points out that the socialists center their attack not upon those industries which have been the most guilty of economic shortcomings, but rather upon those which have been most successful, as witnessed by the current clamor against the electric power industry. Mr. Spargo places the electric industry at or near the top of our industries, judging by any measure of merit, including rates for service, compensation to employees, and wholesome influence on national life, although he concedes the possibility of occasional abuses within its ranks.

MR. Spargo is against government ownership in principle regardless of the economic aspects of the controversy. He tarries long enough in his main argument to point out that not one of the hundreds of the investigations has shown the slightest superiority of government enterprise over private enterprise when fairly judged on an equal basis, whereas the superiority of private enterprise is almost universal. He makes a capital suggestion that there ought to be a law in every state in the Union to compel municipal utility plants to keep classified accounts uniform with the classifications now imposed on privately operated plants. Such a law, he says, would soon show up the shortcomings of governmental operation—shortcomings heretofore hidden in the woodpile of fiscal manipulations, and consequently paid for by unsuspecting taxpayers

out of general funds. But even if this were not so—John Spargo still thinks government ownership ought not to be encouraged. He says:

> "If the truth were opposite to what it is, and it could be shown that government ownership and operation resulted in service as good as or better than that given by private enterprise, but at lower cost, the case for government enterprise would not be thereby placed beyond dispute. It would still be true that the social effects of government competition with private citizens in industry and business are evil and deplorable, and the evil infinitely outweighs any advantages gained.
>
> "The greater the extent of the influence and participation of the government in industry and business the more rigid the framework becomes, the less flexible the economic system, and the smaller the capacity of both the nation as a whole and the individual citizen to withstand and surmount periods of adversity and depression. This can be demonstrated with almost mathematical precision and accuracy. If we take the half dozen leading industrial nations of the world we shall find that during the present period of depression the nations which have gone farthest in the direction of collectivism, in which the extent of government participation in industry and business is greatest, have suffered most while those nations which have developed the least government competition with their citizens in industry and business have suffered least."

Mr. Spargo warns that Soviet Russia is not nearly as great a menace to us as the weak sisters within our own gates—the native born and self-styled "liberal" critics of our capitalistic structure, who, while professing to being constructive in spirit, can see nothing good in capitalism and push us on to government ownership as the first step towards reducing our industries to social control.

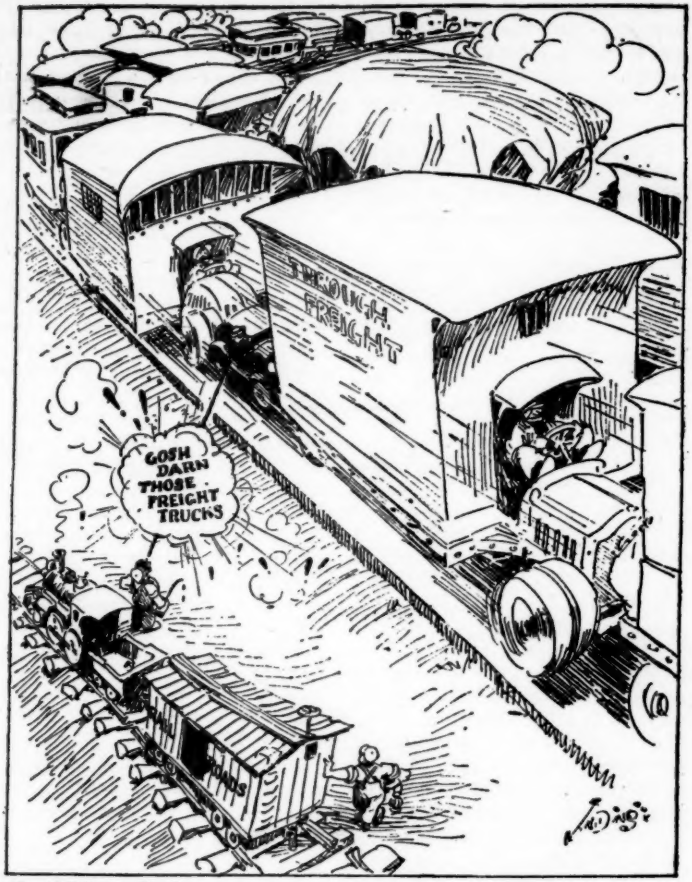
MR. Spargo probably represents the extreme Right in modern American economic thought, because he is against government ownership in principle regardless of dollars and cents just as the New York city communists would represent the extreme Left because they believe in government ownership in principle regardless of dollars and cents. Somewhere between the two there are a great many leading Americans who believe that principles ought to be kept out of the argument and that the task of operating our utilities, for example, ought to be given to the party who can do the best job for the cheapest price regardless of whether he wears the garb of a private citizen or comes to work every morning arrayed in the brass buttons of a public servant.

—F. X. W.

SOCIAL EFFECTS OF GOVERNMENT COMPETITION IN INDUSTRY. Address by John Spargo. Institute of Public Affairs, University of Virginia, July 9, 1931.

An Analysis of What Federal Regulation Has Done for the Railroads

PART I of the thorough study of the Interestate Commerce Commission being made by Professor Sharfman of the University of Michigan under the auspices of the Commonwealth Fund has made its appearance. This book, entitled "The Interstate Commerce Commission, a Study in Administrative Law and Procedure," should find its way into the library of every regulatory commission and every business organization which has anything to do with matters falling under the jurisdiction of the commission. It deals with the legislative basis of the commission's authority and "traces the evolution of the Interstate Commerce Act and allied statutes, not only as a means of indicating the nature of the powers with which the commission is clothed and of the duties with which it is charged, but in terms of the impact of the commission's performance upon the development of the legislative structure." Parts II, III, and IV, which will follow, deal respectively with the scope



Herald-Tribune, N. Y.

MAYBE IT'S THE BEGINNING OF ONE OF THOSE BEAUTIFUL FRIENDSHIPS

of the commission's jurisdiction, the character of the commission's activities, and the commission's organization and procedure.

This first volume is of particular interest in that it presents a detailed historical statement concerning the whole series of Federal railroad acts beginning with the Interstate Commerce Act of 1887. It is noteworthy that, in Professor Sharfman's opinion, the commission itself has been a motive force in the passage of succeeding legislation.

Another more striking point brought out is that the "history of railroad regulation is inseparable from the history of railroad transportation."

Ultimately, it is clear, the character and scope of legislative policy, in fashioning the general goal of administrative regulation, constitutes the governmental response to the pressure of economic facts. The history of railroad regulation is inseparable from the his-

tory of railroad transportation (in its public aspects), and the development of the railroad industry, with its particular problems and policies, is itself but a special manifestation of tendencies operative in the larger economic sphere. Fundamentally, in other words, both the need of railroad control and its general direction are determined by the course of economic events, especially in so far as that course is guided by the peculiar characteristics of railroad operations. An effort has been made to direct attention to the outstanding influences of this character, in their relationship both to the initial enactment of the act to regulate commerce and to its subsequent modifications and supplements.

Too much praise cannot be heaped upon the author for his valuable contribution to the literature already in existence dealing with the regulation of railroads.

—Paul V. Betters,
Brookings Institution,
Washington, D. C.

The Interstate Commerce Commission. A study in Administrative Law and Procedure. By I. L. Sharfman. New York: The Commonwealth Fund. 317 pages. Price $3.50. 1931.

The Power Question as a Political Issue in 1932

The national political campaign for 1932 seems to have gotten off to an early start in every other department except in the selection and clarification of a main issue.

It is to be taken for granted that President Hoover will be nominated by the Republicans and if internal developments within the ranks of the Democrats keep up at their present pace the name of their candidate too should be fairly certain well in advance of their national convention. The alignment of the national committees of both parties seems to be settled at last after strong efforts to displace both Chairman Raskob, of the Democratic Committee, and Senator Fess, of the Republican Committee. But neither party seems to have indicated just what issue will receive dominant attention during the 1932 campaign.

The Democrats can be counted upon to deplore the depression; the Republicans will point with pride to President Hoover's moratorium of war debts, while both will hem and haw considerably before taking a definite stand upon prohibition, if they ever do so. But political history has shown that there is really only one issue to every campaign. That seems to be about all the electorate can digest at one time, regardless of how many other issues may be discussed. Bryan was defeated on free silver; Wilson was elected in 1916 because "he kept us out of war"; Harding was elected because he promised to be careful about the League of Nations; Coolidge, because he brought prosperity; and Hoover because he promised to keep it with us. Hence, in view of other political ballyhoo so far in advance of 1932, observers are interested and puzzled as to just what will be the major issue in the coming campaign.

This brings up for consideration the proposition of whether or not the "power issue" can be made into a dominant national issue.

Doubtless, leaders of both parties would be glad to have it so in order to avoid speaking of such distressing and dangerous topics as prohibition and tariff. But will the electorate swallow the bait?

It has happened that the issue dressed up carefully by both sides as the ideal main ring in the campaign circus has been ignored by an electorate, which perversely showered its attention upon a minor issue previously regarded as a side show. That is what happened

in 1924, when John W. Davis pointed to the oil scandals of the Harding administration only to find the voters "keeping cool with Coolidge." In spite of Mr. Davis' public denunciation of Teapot Dome, the election went off on the issue of Coolidge prosperity.

Notwithstanding the sagacious Al Smith's warning that he "never got very far" with the power issue, Governor Roosevelt in the Democratic camp, and Senator Norris in the Republican camp seem to be among those who feel that the power trust is ripe material for a national issue. On the question of how the issue should be raised, however, there is no general agreement. The editor of *World's Work* says that this is inevitable because "power" is not a single issue but a wide variety of issues, some of which bear small relation to one another. The editorial states:

> "There is the question of water power on the St. Lawrence river—a question which is not a national issue but an issue local to New York. There is the question of power at Muscle Shoals, but on this question the advocates of government operation are themselves divided between those who believe, with ex-Governor Smith, that the government should merely operate the power plants and those who believe, with Senator Norris, that it should also construct transmission lines. There is the question of revising various state laws under which public utilities are regulated, but this question must be decided in the state capitals and not in Washington. There is the question of Federal regulation of power transmitted across state lines, and there is the entirely separate question of Federal regulation of such activities of holding companies as are interstate in character.
>
> "Whether any candidate for President can make an effective national issue of these widely varied questions, in the absence of more general dissatisfaction with existing rates than has appeared to date, remains to be disclosed. Despite the vigor of Governor Pinchot's attack, we doubt it."

BE that as it may, some political figures of national prominence are becoming involved in utility controversy previously regarded as purely local in character. Such is the case of ex-Senator Jim Reed, of Missouri, who has undertaken to defend the Kansas City *Star* against a libel suit filed by Henry L. Doherty, as a result of Editor Longan's criticism of the Cities Service organization during Mr. Doherty's recent run-in with Governor Woodring over natural gas rates for Kansas. Commenting upon the political significance of this legal alignment, the weekly magazine, *Time*, states:

> "Regular counsel for the Star is Watson, Gage, Ess, Groner & Barnett. Senior Partner I. N. Watson is the firm's authority on libel. He defended Henry Ford against Aaron Sapiro. Associated with him in that case was Senator Reed, and last week hard-hitting Lawyer Reed was again called in. White-crested, choleric of complexion, a cigar clamped in the corner of his axe-mark mouth, he will glory in fighting once more 'for the people.' For whatever the merits of the two sides may be, with Lawyer Reed's party reputation at stake locally (Governor Woodring is a democrat in republican Kansas) and with presidential nominations nearing, the $12,000,000 damage suits will ultimately be overshadowed by the larger issue of the fight—between the People and Monopoly."

THIS leads up to the question: What would be the vulnerable point of attack against the present Republican administration on a national scale, assuming that the Democrats did undertake to make power a national issue in 1932? Dr. Charles A. Beard, enumerating the deeds and misdeeds of the present administration in the progressive weekly, *The Nation*, seems to think that President Hoover's selection for the power commission leaves much to be desired. He hastens to explain that this was not entirely the President's fault. He was between Scylla and Charybdis. Dr. Beard stated:

> "Without going into other details bordering perhaps on the invidious, we may look at President Hoover's selections for the Federal Power Commission. No one will contend, it may be presumed, that any of the men chosen for this agency is a transcendent expert in public utilities. No such expert could possibly have been appointed to the commission. If Mr. Hoover had chosen as chairman Mr. Morris L. Cooke or some member of an existing state commission known to be strict in his theories respecting prudent investment,

realistic valuation, and fair return on bona fide capital, the nominee could not have got past that third house of the national Congress — the Organized Utility Interests of America. If, on the other hand, Mr. Hoover had selected a seasoned and disciplined specialist from one of the great utility companies, the slaughter in the Senate would have been terrible to behold. Hence the President chose the only course open to him and selected colorless men for the Power Commission—men guiltless of positive opinions, at least as far as public knowledge runs."

Dr. Beard then goes on to show that however handy the obscurity of these appointees may have been in aiding them to pass senatorial muster, their resulting incompetence immediately got them into trouble. Scarcely had the ink dried on their appointments when they fired two "liberal" subordinates as troublemakers and overnight converted them into "power martyrs." Then, instead of seeing the fight through, and squaring off for a fair "battle with the reds" that might have delighted an electorate, which always loves a fight, the commission suddenly relented and reinstated one of the martyrs, (Governor Roosevelt put the other on the New York state payroll before the commission could rob him of his crown of martyrdom) to the disappointment of the public and the disgust of the press. Dr. Beard states:

"Just at the moment when the heavy artillery should have opened, orderlies came running with an authentic report that King was being restored to his position as accountant to the commission—indicating a hasty retreat on the part of the masters of the establishment. This fumbling of the ball has concentrated the fierce light of newspaper scrutiny on the Power Commission. No other agency in the government is now so closely watched. It can hold no hearings, take no testimony, make no orders without raising apprehension."

SUMMING up the sentiment of the press generally, editors seem to be skeptical of the ability of either Governor Roosevelt or Senator Norris to sell "power" to their respective party leaders as a national issue, but if the Democrats do decide to tackle the dragon we will probably hear much more about the Federal Power Commission in 1932.

—F. X. W.

EDITORIAL. *World's Work.* August, 1931.

EDITORIAL. *Time.* July 20, 1931.

THE PRESIDENTIAL APPOINTMENTS. By Charles A. Beard. *The Nation.* July 22, 1931.

An Assault on the Utilities That Is Madder but Dreiser

WHILE it is no news to hear utilities lambasted by politicians, utility executives are still wondering just why the novelist Theodore Dreiser went out of his way some weeks ago to take a poke at the "power trust." They will probably be amused to read Editor William Wallace Chapman, of the San Francisco weekly, *The Argonaut,* give his comical description of the appalling significance of this new development to the power magnates.

Up to now, Editor Chapman claims, the public has failed to warm up to the harangues of the politicians, but with the advent of the mighty man of letters in the lists of the people's champions, the aspect of the situation grows, indeed, black for the utilities. The editorial states:

"And now, who can tell? For at one bound, armed *cap-a-pie,* lance in rest and vocabulary unimpaired, there has come bounding to the fore, breathing fire and slaughter, challenging the monster to a duel to the death, one Theodore Dreiser, snorting for the fray. Sulphurous fumes of denunciation pour forth from his nostrils. His feet thunder as they tramp into the open arena. Every dictionary is open, every synonym and antonym attends him, the glossaries are alert, his thesaurus is ready for the combat.

"Already the 'power trust' is trembling

and quaking like an aspen in the wind. It's all up with them now. Norris and Borah and Pinchot and Roosevelt were a jest. But Dreiser? Ah! That is another matter. Here is the doughtiest of champions, victor, indeed, in that joust with a far more fearsome opponent than a power trust could ever be! How, indeed, shall the 'power trust' hope to cope with the warrior who braved the lightning eyes, the beetling brow, and the petulant tempers of Sinclair Lewis and with one fell slap reduced him to tame submission? . . . On, Theodore, on! Charge, Dreiser, charge!"

—D. L.

EDITORIAL. *The Argonaut.* July 25, 1931.

"Human Relations" Instead of Law in the Regulation of Utilities

IN a recent address to a power utility group at Del Monte, California, Hon. Leon O. Whitsell, of the California commission, stirred up a long-brooding controversy between advocates of commission regulation and its critics when he suggested that public utilities should take the initiative in rate disputes by friendly conferences and negotiations.

COMMISSIONER Whitsell is of the opinion that the advantages of friendly coöperation have been fully demonstrated by the companies and the regulatory authorities in his state by conferences and negotiations instead of controversial rate litigation. He states that the people of California have saved $3,000,000 in the last three years; that is the estimated expense saved by agreement. Otherwise the ratepayers would have had the cost of the fight included in their service bill. The commissioner stated that he was not in sympathy with the idea sometimes expressed in high places that the regulation of public utilities by the state commission has proven a failure, and that some other method or system should be adopted in lieu thereof.

He reviewed the results of regulation in California and stated that the people of that state have enjoyed adequate service at reasonable rates, while the utilities have prospered under a fair return upon a fair value of the property used in public service. He observed also that the commission's policy so far as public utility financing is concerned has lowered the cost of money to the utilities, stabilized their financial structure, and made watered stock and over-capitalization of utilities things of the past in California. Commissioner Whitsell stated:

> "In my judgment, the remedy to be applied does not lie in the realm of the law, but in that of human relations and economics. The companies can improve conditions by voluntary action, and thus, in a measure, at least, become largely self-regulating in so far as the adjustment of rates is concerned. I refer to what I choose to call 'regulation by conference' as against formal proceedings. Much good has been accomplished in the past through amicable adjustments effected around the conference table, and I believe that much more is to be accomplished in the future."

IN giving specific instructions as to how round table regulation might be installed, Commissioner Whitsell suggested that when a utility sees that its rate of return is exceeding the rate allowed by the commission it should voluntarily work out a reduction and obviate the necessity of action by the commission or the consumers. In case an increase is imperative the same method could be applied.

THE reactions to Commissioner Whitsell's suggestions were generally favorable and sympathetic, and though some commentators are inclined to be somewhat skeptical as to the possibility that round table regulation could ever be accepted without suspicion by the public. The weekly journal of the telephone industry, *Telephony,* seems to believe that the failure of utilities and commissions to get together on

round table regulation in the past has been due in part to the querulous disposition of some state commissioners. The editorial pointed to current wrangling over salaries of certain of the Bell system officials before one of the state commissions and concluded:

> "If the theory of state regulation of public utilities is to survive there must be more coöperative action between the company and the commission. Otherwise, the public may well favor abolishing the commission and let the rate cases go at once to the courts.
>
> "The anti-utility politicians at Washington who want Federal regulation are rejoicing at every dispute between the state and a service company. All these wrangles strengthen their contention that state regulation has failed. Yet there is plenty of evidence on the other side of the case."

THE gas industry, as evidenced by an editorial in the *Gas Age-Record,* appears to be somewhat more optimistic about the ultimate success of round table regulation. The gas journal's editorial would have us believe that constant dropping of hints will wear away the hard stone of public opposition and public suspicion. It states:

> "Mr. Whitsell's ideas are not new to the gas industry but they bear constant repetition. Increasing attention to public relations can very well begin with friendly conferences on rates and lead to voluntary reductions whenever possible. The public appreciates fair play, even if it does not always seem to exercise it."

FORMER Interstate Commerce Commissioner Thomas F. Woodlock, writing in the *Wall Street Journal,* probably voices the sentiment of that school of thought which holds that round table regulation is too Utopian for the temper of the American public, at least for present practical purposes.

Mr. Woodlock concedes that round table regulation may be possible in a state such as California where the commission is strongly entrenched in public confidence, but he does not believe that it would be successful in New York city. He points to a recent rate case tried out before the New York Public Service Commission with extensive hearings in New York city in which the ultimate decision corresponded closely to the original propositions of the utility companies concerned, abundantly supported by facts and sound reasoning upon such facts. Yet in many quarters the result was received with howls of rage.

Now, says Mr. Woodlock, suppose the same decision had been reached behind the closed doors of a conference room; what would the public reaction have been? He thinks the decision would have been hailed through the length and breadth of the state as another indication that "regulation had failed."

Mr. Woodlock stated his opinion of Commissioner Whitsell's plan as follows:

> "Common sense of the 'commonest' (because most uncommon) kind! But what are you to do about it when, on the one hand, commissions are afraid to talk across the table with utility companies lest they be accused of trafficking with 'public enemies,' and, on the other hand, company managers are afraid lest they be walking into the spider's parlor? Your bureaucrat is of all men the timidest; he must shelter himself always behind formalities the while he professes to dislike 'star-chamber' methods and talks gallantly of 'dealing in the open.' Cowardice is at the bottom of this and it is proof of the California commission's strength that one of its members can openly advocate a policy such as that described by Commissioner Whitsell."

IT might be added almost as a tribute to Commissioner Whitsell's reputation for personal integrity that not even the radical press hailed his suggestion for round table regulation as a scheme to "put one over" on the American public by agitating for a closed door regulatory policy. Apparently, whatever may be the general opinion as to the merits of his plan, Commissioner Whitsell's suggestion has been accepted as a sincere attempt to make utility regulation a success.

—F. X. W.

EDITORIAL. *Telephony.* July 18, 1931.

EDITORIAL. *Gas Age-Record,* July 11, 1931.

SELF-REGULATION. By Thomas F. Woodlock. *The Wall Street Journal.* July 14, 1931.

The March of Events

Alabama

Legislature Acts on Bills Increasing Board's Powers and Extending Terms

Two bills killed by the senate would have extended the terms of office of commissioners from four to six years and would have increased their powers. The bills were indefinitely postponed after a vitriolic attack upon the commissioners.

The bill extending the term of office provided for the election of one commissioner every two years. Commissioner Fitzhugh Lee's present term would have been extended two years under the bill because, according to sponsors of the legislation, he pulled a larger vote in the last election than Commissioner E. P. Morgan. Senator McDaniels, according to the Mobile *Register*, complained that one of the present members would be running for office and the other two could "log-roll" for him, and that sort of thing would go on ad infinitum.

The same senator attacked the bill increasing the power of the commission to compel utilities to sell electric current, gas, or water to other utilities. His opposition to this bill was largely founded upon his animosity towards the present commissioners.

The legislature has, however, approved an enlargement of commission jurisdiction so as to provide for supervision and regulation of the financing and securities of telephone companies, with certain exceptions, says the *United States Daily*.

District of Columbia

Stock Sale to Parent Company Is Opposed

The public utilities commission has instructed its general counsel to contest the right of the Chesapeake & Potomac Telephone Company, which serves the District of Columbia, to sell $5,000,000 of additional capital stock to the American Telephone and Telegraph Company. The latter company previously owned all of the outstanding stock of the operating company.

The commission recently authorized the Chesapeake & Potomac Company to issue an additional $7,000,000 of stock, bringing the total capitalization of the company up to $20,000,000. The authorization order provided that the sale of the stock should conform in all respects to all laws and all regulations of the commission. A sale of this stock to the parent company, it is contended, would violate the so-called La Follette Antimerger Law, passed by Congress in 1913, which provides that it shall be unlawful for any foreign public utility corporation or for any foreign or local holding corporation to own, control, hold, or vote 20 per cent or more of the stock of any public utility in the District without authority from Congress.

The stock of the local company was all owned by the nation-wide company prior to the enactment of this law, and it is asserted by the companies that the sale of additional stock to the parent company does not violate the antimerger law as the relationship between the two is not changed in any manner.

The antimerger law provides that the supreme court of the District, on application of the District by its commissioners or by the United States and a stockholder in a public utility, may dissolve a public utility violating the act, and may require any foreign corporation to dispose of stock acquired in violation of the law.

Cab Rate War Waged

The city of Washington is in the throes of its most severe cab rate war. Rates reached during July an all time low of a 10-cent city-wide flat rate—exactly the same as the price of a street car ride in the city. Private taxi operators climaxed the rate war with the city-wide zone scale of 10 cents on July 15th.

This drastic cut followed rate drops by virtually every cab company in the city, including the City Cab Company and the Diamond Cab Company. The Diamond Company on July 14th reduced its rates to 20

cents in the city proper. This action was followed by the City Cab Company and the Broadmoor Taxi Company, which announced that they would operate for 15 cents, according to the Washington *Herald*.

The public utilities commission stepped into the fray at one time to prevent independent drivers from giving away rides, but it was thought that the commission is biding its time until its jurisdiction to fix cab rates is established. The power to fix rates to a limited extent was sustained in 1915, yet attempts by the commission to regulate cabs have, from time to time, been restrained by court injunction. The question has been raised whether the commission has power to fix minimum as well as maximum rates. Legislation has been pending in Congress specifically covering taxicab regulation and action on this legislation is expected at the next session.

A peace conference was held, at the call of People's Counsel Richmond B. Keech, on July 29th and several operators agreed to an increase in rates, but some of the operators have held to the cut rates.

Georgia

Federal Court Hears Utility Attack on Gas Rates

THE Augusta gas rate fight came before Special Master I. S. Hopkins of the Federal court on July 22nd for hearing, and after the conclusion of testimony on July 24th the city attorney was given until August 15th to prepare and file briefs. The utility is attacking a commission rate order.

The company alleged a property valuation in Augusta amounting to $1,460,000, while rate experts for the city fixed the valuation at between $800,000 and $900,000. A wide difference existed between expert opinions on the question of existing depreciation. There was also testimony that gas mains valued at $334,000 by a witness for the city could be laid $225,000 cheaper today than witnesses for the utility claimed the work could be done.

Illinois

Rate Increase Brings Threat by City to Purchase Waterworks

THE city of Freeport, according to the Freeport *Journal-Standard*, may take steps to acquire the local water utility under optional terms contained in the franchise granted the company by the city in 1912. This threat is a part of local opposition to a water rate increase.

The commission last year authorized a rate increase of 4.2 per cent. The utility believed that the increase was inadequate and obtained a temporary injunction in Federal court restraining the commission from enforcing its order. An increase in rates amounting to 10 per cent was then made.

A report furnished by A. W. Murray, of the Rawleigh Foundation, outlines two methods of procedure against the higher rates. He indicated that the city might compromise the litigation by agreeing to a 10 per cent increase and accepting, without dispute, the exhibits of additional expenditures since the commission's valuation as contended for by the company, which, it claims, justifies the allowance of a 10 per cent increase. The other line of action outlined provides for defending the case in the Federal court.

The report outlines plans for a possible purchase of the utility property. A special election for the purpose of submitting the proposition to a vote of the people might be necessary, if objection is made to the purchase by 20 per cent of the voters by means of an objecting petition.

Franchise Violation Charged When City Buys Generator

THE Kewanee Public Service Company has denied the legal right of the city of Kewanee to purchase, install, or operate a Diesel engine for boulevard lighting and water pumping electric generation. Notwithstanding this objection, says the Kewanee *Star-Courier*, the mayor has signed contracts for the purchase of the engine.

The claim is made that an ordinance approved in 1924 provides for a 20-year franchise upon payment of $130,000 and improving gas, electric, and electric railway systems. The utility company states that it has continuously and faithfully performed every provision of the contract strictly in accordance with its terms by purchasing the electric generating plant and the electrical dis-

tribution system of the city, and has paid into the city treasury a sum equal to the amount expended therefor by the city, amounting to $130,000, and thereafter expended large sums of money in improving the electric and gas distribution systems and establishing a street railway system. The action of the city is said to be an infringement upon the rights of the company obtained under the franchise contract.

Opposition to the contract also developed in the council. One commissioner contended that by accepting a 20 per cent reduction in all street lighting and not utilizing a Diesel oil engine for boulevard lighting and water pumping the city would net a saving over the Diesel oil engine plan.

Chicago Council Passes New Telephone Ordinance

THE Chicago council on July 20th, after a 12-hour battle, passed a new franchise ordinance for the Illinois Bell Telephone Company. There was then considerable speculation as to whether Mayor Cermak would sign or veto the measure. Approval of the ordinance would mean the payment of $4,250,000 in back compensation to the city.

The board of directors of the Chicago Federation of Labor, according to the Chicago *Herald-Examiner*, is opposed to the franchise and was expected to call upon the mayor to veto it.

Indiana

Area Accounting Basis Is Criticized

AT the resumption of hearings in Federal court in proceedings to obtain higher rates for the Southern Indiana Telephone & Telegraph Company, a witness said that the accounting department of the commission had found it difficult to analyze the financial affairs of the company because income books had been set up on the area basis, which takes in more than one exchange and rural extensions along with urban patrons. Other telephone companies, he said, followed the practice of confining their income accounting methods to the single exchange area, according to the Indianapolis *News*.

Officers of the company in former rate hearings have explained that the area grouping of properties is preferable to the exchange basis for the reason that pioneering in rural extensions could be better carried on.

This investigation of rates followed an application by the company last year for authority to raise its charges in thirty southern Indiana communities. The commission denied this authority with the statement that the people of southern Indiana afflicted by the drought and economic depression could not afford to pay higher rates for service.

The company has contended for a valuation of $1,308,571 while public service commission engineers have placed the valuation at $943,000. Testimony was introduced to show that the value of the property had declined approximately 25 per cent from the appraised value in 1929.

A detailed study of costs dealing with the allocation of company property to interstate and intrastate and local telephone messages as well as details of operation for each type of message was introduced in the proceeding over objections by the public service commission and towns interested in the rates.

County Action on Natural Gas Installation Is Postponed

PIKE county commissioners at a hearing on July 17th declined to act on a request by the Ohio Fuel Gas Company for permission to construct a pipe line through the county. They said they would take no action until the public service commission had decided to refuse or to grant a certificate that would permit the Manufacturers' Natural Gas Association to establish lines to serve manufacturers in Indianapolis with natural gas. They indicated, says the Indianapolis *Star*, that after a decision from the commission they would be able to treat all of the natural gas companies alike and consider their applications at the same time. The *Star* adds:

"The Ohio Fuel Gas Company is constructing a pipe line from Muncie to the Indiana-Illinois state line to connect with a similar line from the Texas Panhandle. The Muncie line carries gas from the eastern field in Ohio.

"Warwick Wallace, attorney for the company, argued that delay would be costly to his clients, and George Snider, one of the commissioners, replied by suggesting that the Ohio company go around the county or file suit in Federal court to mandate the county officials to permit construction of the line.

"The Manufacturers' Natural Gas Association, Inc., is composed of sixteen Indianapolis companies and is incorporated to issue $500,000 worth of stock. If permitted to operate pipe lines here, they will purchase their fuel from the Kentucky Natural Gas Company."

Kansas

Validity of Law Restricting Merchandising Is Questioned

THE legislature this year prohibited merchandising of appliances by public utilities. Earl H. Hatcher, attorney for the public service commission, has asked the attorney general, Roland Boynton, for an opinion on the validity of the act. The *United States Daily* states:

"Mr. Hatcher asserts that the act attempts to impose an arbitrary regulation upon one class of citizens, restricting the legal right of public utilities to sell merchandise in competition with other citizens."

The *Daily* quotes the following from Mr. Hatcher's letter: "It is my opinion that the act is invalid on two grounds. The right to sell merchandise is granted to the various companies by charter. To single out the utilities in prohibiting merchandising would require an amendment of their charters.

"The act is entitled: 'An act providing for the protection of the public as consumers of electricity, gas, and water from unjust charges in rates; aiding the public service commission at arriving at just rates; preventing unfair discrimination in wholesale, retail, and manufacturing business of public utilities; preventing misuse of merchandising by public utilities by making unlawful the manufacturing, leasing, distributing, and selling of merchandise by public utilities; and relating thereto.'

"I do not believe that this title can be construed as an exercise by the legislature of its power to alter and amend corporate charters. The first section of the act is made applicable to individuals, firms, or corporations and makes it quite clear that the alteration or amendment of corporate charters was never intended by the legislature and is not expressed in the body of the act.

"The second reason for believing that the act is invalid is that it violates the Constitution of the United States, which provides: 'Nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the protection of the laws.' The title of the act states that it is an act 'aiding the public service commission at arriving at just rates.'

"There is nothing in the body of the act which carries out this intention. The legislature did, no doubt, have in mind that if there could be no merchandising done by public utilities, merchandising expense could not be carried in the expense for rate-making purposes. That matter could have been disposed of by an enactment to that effect, but the act goes further and the real purpose of the act is disclosed by the part of the title which reads: 'Preventing unfair discrimination in wholesale, retail, and manufacturing business of public utilities.'

"It would appear that the act is largely devoted to the protection of merchants engaged in selling public utility appliances against competition by public utilities. If this is the case it is clearly legislation in favor of a particular class. The general public is in no way protected by this class legislation and the competitive advantage given to the particular merchants.

"The legislature no doubt had the power to require the public utilities to keep separate accounts of the merchandise business, but when they destroyed this business for the benefit of the particular class of merchants they took the property of the public utilities without due process of law, and denied to them the equal protection of the laws.

"The legislature cannot place a regulation upon one class of citizens arbitrary in character and restricting their rights and privileges or legal capacities, in a matter before unknown to the law, for the purpose of giving a competitive advantage to another class of citizens.

"Recent court decisions have enabled the public service commission to make rules requiring separate accounting of the merchandising business and no loss will result in this respect from the invalidity of the law.

"We would appreciate it if you would give us an opinion upon this law at the earliest possible moment so that the public generally will not be seriously disturbed by any action which may follow. We can then, at the earliest possible time, have a test case to finally determine the validity of the act."

Maryland

Cab Regulation Law May Be Submitted to Referendum

THE recently enacted state taxicab law, which requires Baltimore cabs to carry meters and to provide liability insurance, may be submitted to a referendum vote in 1932, says the *Taxi Weekly*, which adds:

"The attorney general's office, it is said, will very soon confer with the secretary of state and if the petition is found in order,

the law, scheduled to become effective January 1, 1932, will be voided pending a popular vote at the general elections next year.

"Major operators here who favor complete financial responsibility and metered cabs feel that the industry will receive a severe blow if the law is voided. Its passage by the state legislature in the spring was hailed as a distinct victory. At the time, public service commission officials, taxicab operators, and foresighted newspapers spoke in high terms of the new law. It was cited as an act that would weed out existing evils in the trade, give both the operator and the public reasonable protection, and guarantee a high standard of taxicab service. If the law goes into effect, it will bar the driver-rental system and eliminate flat rate operations in Baltimore.

"The announcement concerning the referendum petition was made by Samuel Aaron, counsel for the Sun Cab Company, a zone rate firm here. Sun Cab fought the measure bitterly while it was in the legislature, it is said.

"One of the indefatigable workers for the passage of the law was Harold E. West, chairman of the Maryland Public Service Commission.

"Sometime before the bill was introduced in the Maryland legislature, the commission had clashed with the Sun Cab Company over the question of compulsory liability. When it ordered that the Sun Cab Company take out specific amounts, the question was taken to the courts and the courts refused to uphold the order. The present law was then sought, and its passage eliminated the possibility of a similar situation by giving the commission full authority to require liability insurance.

"Operators who favor the law and who hope that it will go into effect as scheduled in January, declare that it will bring great relief to the Baltimore industry by stamping out flat rates, compelling meters, and requiring complete financial responsibility. These operators feel that a referendum is not needed and that it would only hold up the law and delay its eventual application here."

Michigan

Water Rate Increase Is Said to Violate Agreement

WOODCLIFF Park Improvement Association has protested installation of meters and payment of water rates twice as large as formerly and has asked the city commission of East Grand Rapids to reconsider its action in making such changes, says the Grand Rapids *Herald*.

The association states that the waterworks system at Woodcliff Park, including pipes, tanks, pumps, the pumphouse, dock, and amusements were given to the city in return for an agreement whereby the city was to keep the system in repair and give summer service of water to present and future users at rates fixed by the municipality. Two weeks after the city took over the system, it is said, the system was abandoned, a flowing well was disconnected from a 5-inch suction pump to let the flow into a lake, the pump equipment was dismantled, electric motor and power equipments were removed, and the system was connected to the city water system. Water was served for a flat rate of $10 a season until this year, when the city manager notified the water users that they could receive service only through a meter system, that they would be obliged to purchase a meter at the city's price of $13.50 and installation, and that rates would be doubled.

Minnesota

Choice of Metered Phone Service Will Be Offered

MEASURED telephone service to be offered Minneapolis and St. Paul subscribers when the merger of the Northwestern Bell and Tri-State Telephone and Telegraph companies is completed will be optional with users, according to a statement of O. P. B. Jacobson, chairman of the Minnesota Railroad and Warehouse Commission, as reported in the Minneapolis *Journal*, which says:

"The commission approved the merger contingent on the establishment of reduced rates, including a new residential two-party service of $2.50 for 50 calls a month and 5 cents a call for all additional calls.

"Subscribers who average more than 60 outgoing calls a month would save money by paying a flat $3 net rate, he said, and under the proposed new system they may ob-

tain service at the flat rate if they choose.

"The new rates will save Minneapolis subscribers nearly $200,000 a year and St. Paul users $155,000 to $157,000, it was estimated by Frank Bracelin, general manager of the Northwestern Bell Company, which proposes to purchase more than 94 per cent of the Tri-State common stock at a price in excess of $18,500,000.

"The merger will be completed with approval of the interstate commerce commission, which is expected to announce its decision within sixty or ninety days."

St. Paul officials have criticized the merger approval and rate reduction order. They say the reduction amounts to about 3 per cent while the city wanted a reduction of 20 per cent in rates, and that a full investigation and hearing were not had. Much ado was made over the fact that a preliminary draft of the new schedules was made by telephone attorneys and adopted after revision by the commission. Commission members explained that this is the usual procedure followed by courts and commissions, in having one of the parties draft the technical provisions for the order for its submission to the tribunal for approval or change, after an agreement on the general terms has been reached.

Commission members, according to the newspapers, have reminded the city of St. Paul that when an attempt was made in the legislature to obtain an appropriation for an investigation of the telephone business, there was no concerted support by the city. The commission, it is said, has reached by agreement the best terms possible without a complete investigation.

New York

Room-Rate Basis of Electric Rates Is Criticized

ELECTRIC rate schedules submitted by the Rockland Light and Power Company have been disapproved by a special committee of the Port Jervis council, and the council has adopted the report of the committee, according to the Port Jervis *Union*. The room-rate basis feature seems to be the point of controversy.

The company had submitted the new rate proposals through the public service commission to induce the withdrawal of complaints pending before the commission. The rates proposed include a charge of 8 cents per kilowatt hour for the first six kilowatt hours per month, per demand unit. All energy used beyond this amount would be charged for at 4 cents per kilowatt hour. In addition to these charges there would be a rate of 20 cents net per month per demand unit with a minimum of six units. The number of demand units would generally be the same as the number of rooms, using the real estate count. The average rate in any month would not exceed 10 cents net per kilowatt hour except in case the minimum charge applies. This would be 75 cents net per month.

Present cooking and power rates would be abolished to residential consumers and residential service would be given through a single meter.

The committee, in its report, "cannot see wherein the proposed compromise rate offers any relief whatsoever and we most emphatically protest against the saddling on the people of the 20 cents per month per demand unit rate, contending that it is un-American, unfair, and dangerous to establish a precedent whereby the people are compelled to pay 20 cents per room with a minimum of six rooms, before they are allowed to use electricity at a reasonable rate per kilowatt hour."

North Carolina

General Rate Investigation Refused in Discrimination Case

A MILLING company has started a proceeding before the state corporation commission alleging that power rates are unreasonable and discriminatory. This consumer at the opening of hearings on July 16th attempted to obtain a general investigation of the rates of the Virginia Electric and Power Company, which serves a large number of communities in northeastern North Carolina. Robert Ruark, attorney for the industrial company, argued that such an investigation should be made to determine whether his client's rates were discriminatory since he alleged that other consumers using similar service were getting a lower rate.

The commission ruled against this contention and held that the hearing would be limited to the single issue of whether the in-

dustry was specifically discriminated against in the matter of discount. Judge L. R. Varser, counsel for the utility, had contended that there was no basis in the petition for a general investigation.

Counsel for the mills indicated his intention to contest a payment made by the utility for engineering service.

The specific complaint of the mills is that other users of power with similar contracts are getting a 10 per cent discount for prompt payment, and another 10 per cent discount for being primary rather than secondary consumers of current. The Hart Mills using $8,000 worth of current a month, assert that this discriminates against them to the extent of $800 per month. The power company asserts that the matter is up to the court and hinges on a question of law in interpretation of the contract under which service is rendered. A suit has also been started in the civil court to recover alleged overpayments.

Oklahoma

Voters Approve Franchise

At a special election the citizens of Morris, on July 28th, approved the granting of a new franchise to Oklahoma Natural Gas Corporation to supply gas service in that city for the next twenty-five years. The present gas distribution system in Morris is owned by Oklahoma Natural, which has operated there for years.

The only stipulation in the new franchise as to the rates is that they shall be the same as in the city of Okmulgee, which also is served by the Oklahoma Natural system. The present rate for residential gas service in Okmulgee is 48 cents per thousand cubic feet.

The Morris franchise is the first to be voted of a number of Oklahoma Natural franchises coming up for renewal this year, including those in Oklahoma City, Shawnee, and Tulsa.

Oregon

Street Car Hearing Is Scheduled

Special Master O. P. Coshow, appointed by the Federal court to take testimony and submit findings, will begin hearings on August 17th in the suit of the Northwest Public Service Company to enjoin C. M. Thomas, commissioner of public utilities, from enforcing an order reducing street car fares in Portland from 10 to 7 cents, says the Portland *Journal*. This date was agreed upon between attorneys and the special master. The main issue in the case is whether the fare reduction is confiscatory.

Committee Reports on Service-At-Cost Franchise

Recommendations of policy in granting a new street car franchise are included in a report of the subcommittee of six selected from the Portland mayor's committee of twenty-five to study a service-at-cost franchise. High lights of the subcommittee's report, quoting from the Portland *Journal*, are:

"An adequate mass transportation system is an absolute economic necessity in Portland. This service must be rendered at a reasonable fare, but the committee believes that possibility and importance of reducing fare has been over-emphasized. Lowering of fares alone will not solve the mass transportation problem.

"The committee is not in sympathy with proposals which would reduce street car fares at expense of the taxpayers, but does favor assumption by the taxpayers of certain unjust burdens now paid by the car rider.

"Patronage has decreased so rapidly that under the circumstances the company cannot be expected to modernize its system, as public interest demands, or even to continue to operate on its present basis.

"Portland's next street railway franchise should take into account the increased use of motor busses and replacement of various types of street railway service by busses.

"The committee favors incorporation of the service-at-cost principle in the next franchise. It believes there should be a sliding scale of fares and that the beginning should be an 8-cent fare for the first year. Salaries of officials and employees should be adjusted as an incentive to more efficient operation.

"The franchise must require purchase of new rolling stock to supersede antiquated equipment. A definite sum should be stated to be spent for new equipment during the first three years of the franchise. The committee recommends

that this amount be not less than $2,000,000.

"The franchise should be left open so that the latest developments in the industry could continually be used.

"The street car company should reconstruct its trackage where it is not up to par. This cost should be supported by the street car rider rather than the taxpayer. The rails and the pavement, etc., should not be bought from the company, but it should be relieved of the expense of pavement.

"The committee recommends general policies that should be followed in determining valuation of the system—this to be arrived at by bargaining rather than by prescribed axioms of cost valuation of public utilities.

"Unless the company is willing to accept a value considerably below any yet suggested and to take into account the obsolescence of its system and the lack of earnings the present system of regulation should be continued in effect.

"The committee rejects the proposal that a member of the city council should be a member of the board of directors for the street railway company.

"Bridge tolls constitute an unjust burden on street car riders and it is recommended that tolls be removed. Franchise fees should be removed. Free transportation for police and firemen should not be provided for in the new franchise.

"No franchise should be granted competing lines."

Texas

Merchandising by Utilities Is Basis for Forfeiture Suit

ATTORNEY General James V. Allred, according to the *United States Daily*, has declared that he will insist upon forfeiture of the charter of the San Antonio Public Service Company, receivership for its business, imposition of penalty fines, and ouster from the state of its foreign affiliate corporations, in a quo warranto suit charging the utility with violating the terms of its charter by engaging in the merchandising of appliances. He is quoted in the *Daily* as saying concerning his plans:

"In these times of corporate mergers it is important that corporations be restricted to the legal purposes authorized by their charters.

"I intend to press for all the penalties asked in the suit filed by the state against the San Antonio Public Service Company.

"I am confident if this corporation is dissolved, there will be plenty of others willing to carry on the business within legal limits of corporate powers.

"Records show that the company already this year has paid large dividends on various classes of its stock, besides having set aside $200,000 to reserve.

"The law says that when it is proven a corporation has violated the limits of its express charter powers, it is mandatory upon the court to declare the charter forfeited. I am setting out to prove that the corporate powers of the San Antonio Public Service Company have been exceeded when it entered the field of merchandising, and I shall insist upon the statutory penalty.

"I intend to file other suits involving the same question.

"Attorneys for various other utilities have consulted me about the matter, and it may be that numbers of them will have gotten out of the merchandising field before evidence can be worked up with respect to the firms individually."

Virginia

Restrictions on Interstate Bus Tickets Are Proposed

THE state corporation commission has notified bus operators that it is considering the promulgation of a rule forbidding intrastate bus lines from selling or honoring tickets of any interstate line. Objections to the ruling have been presented by a number of bus operators, who contend that such action would be unconstitutional.

The proposed rule, as reported in the *United States Daily*, provides that: "No intrastate motor vehicle carrier shall sell, or honor, any ticket or tickets over any lines and/or systems of any interstate motor vehicle carrier, or enter into any interline agreement therewith.

"The failure of any carrier to comply with this rule will be sufficient reason for the commission to issue a rule, and if at the hearing on such rule it be shown that such carrier has violated the same the commission is au-

thorized to revoke the certificate or certificates of such carrier, and/or to impose a fine of not less than $50 nor more than $1,000."

Several companies have filed an answer to the commission's proposal. They state that they are engaged in intrastate operation, and through affiliated companies in interstate business. They have joint tariff arrangements and agreements and interstate interline passenger tariffs whereby persons engaged in interstate journeys may purchase tickets from any one of the companies covering the entire trip. It is alleged that the effects of the proposed order, according to the report in the *Daily*, are:

"(1). To prevent carriers engaged in interstate commerce in the state of Virginia from making contracts for the exchange of passengers and baggage by the sale of coupon tickets for continuous transportation in interstate commerce upon an agreed division of fares.

"(2). To prevent a passenger in interstate commerce from making a contract for a continuous passage at a single fare with a combination of carriers holding intrastate and interstate certificates from the state corporation commission of Virginia.

"(3). To compel the separation, not of interstate and intrastate commerce, but all carriers engaged in interstate commerce upon the classification of certificates issued by the state corporation commission of Virginia and to deny to each classification the right to contract with the other concerning continuous interstate transportation.

"(4). Presumably to fix the interstate rates by a combination of intrastate rates under the control of the state corporation commission of Virginia."

Wisconsin

Telephone Relationships Will Be Investigated

THE commission has ordered an investigation into the relationship between the Wisconsin Telephone Company and related companies, including the American Telephone and Telegraph Company, the Western Electric Company, the Bell Securities Company, the Graybar Company, and Bell Laboratories, Incorporated. The purpose of the investigation is to determine whether the payment of a percentage of revenues from telephone operations in the state and the charges made for equipment are reasonable.

The propriety and effectiveness of the services of the American Telephone and Telegraph Company to the Wisconsin Company is conceded, but the commission wants to determine whether the researches and activities of the general staff of the American Telephone and Telegraph Company on behalf of the associated companies actually reflect savings to the associated companies.

Secondly, assuming that the activities of the American Telephone and Telegraph Company under the license contract do produce economies, the question is raised whether these economies are passed on to the subscribers for telephone service in Wisconsin communities.

Furthermore, because it is a matter of common knowledge that the American Telephone and Telegraph Company and the Western Electric Company are also engaged in the movietone, telephoto, and other telephone businesses, it may be said that its extra-telephone services and equipment are essentially by-products of the telephone business, and the commission wants to know whether the entire charge for development of investigations by the American Telephone and Telegraph Company prior to the time when these by-products became practical for manufacture and sale has been charged to Wisconsin telephone users.

In the case of the Western Electric Company relationship, the commission proposes to determine whether economies of production and distribution are passed on to the Wisconsin Telephone Company. This relationship is said to be a vital issue, as indicated by the fact that during the year 1930 in the Madison exchange alone there was added $75,000 in station equipment and in the year 1929 almost $100,000, and in the same period there was added $110,000 and $40,000 in exchange underground conduits, and $50,000 and $30,000 in exchange underground cable. Most, if not all of it, we are told, represents purchases from the Western Electric Company.

The commission expresses the opinion that it would be a waste of energy, time, and money to investigate the situation in a particular city; and, by reason of the fact that it believes the statewide basis for telephone rate making is a sound and fair one, the investigation is ordered on a statewide basis.

The commission is requiring the company to submit extensive data on the subject under investigation. Expenses reasonably attributable to the investigation are to be assessed against and charged to the Wisconsin Telephone Company.

The Latest Utility Rulings

Taxpayers May Not Demand Use of Municipal Plant Revenues to Retire Bonds

THE Oklahoma state Constitution (§ 27, Art. 10) provides that any municipality in that state may, by a majority of its qualified taxpayer voters, voting at a special election, be allowed to become indebted in a larger amount than that specified in another section (§ 26) of the Constitution, for the purpose of purchasing or constructing public utilities or for repairing the same, to be owned exclusively by such municipality. This section of the Constitution also provides that any such municipality incurring such indebtedness shall have the power to provide for collection of an annual tax in addition to other taxes sufficient to pay the interest upon an indebtedness for its utilities when such indebtedness falls due, and also to constitute a sinking fund for the payment of the principal within twenty-five years from the time of contracting the obligation.

In other words, Oklahoma taxpayers may, by signifying their assent at a special election, agree to finance the construction and maintenance of municipal utilities out of tax funds. The Constitution does not, however, provide for the regulation of the rates of such plants by a state commission, nor does it specify the uses towards which revenues from the plant must be devoted by the municipality.

Recently a taxpayer of the city of Okmulgee sued in court to restrain certain tax levies—by the treasurer of Okmulgee county. It appears that the city of Okmulgee had issued bonds pursuant to the authority granted by the Constitution for the construction of a water department. The recent tax levies were said to defray among other public expenses the cost of the payment of these bonds. The taxpayer took the position that in so much as the water department had earned revenues over and above the cost of operating expenses, such revenues ought to be applied on the payment of the bonds. The supreme court of Oklahoma overruled the taxpayer's contention on this point by holding that neither the statutes nor the Constitution of the state specifically prescribes the purpose to which profits derived from municipally owned utilities must be appropriated. *Jones v. Blaine (Okla. Sup. Ct.) No. 20026, 300 Pac. 369.*

A Utility Is Required to Eliminate Optional Rates

THERE is comparatively little reported authority upon the proposition of whether or not a utility is required to place its customers at all times upon the most favorable rate available for such customer. In this department of the July 23d issue of PUBLIC UTILITIES FORTNIGHTLY there was reported a digest of a recent decision of the Pennsylvania commission deciding this point in favor of the utility (Speer & Co. *v.* Duquesne Light Co.). In that case the Pennsylvania commission held that while a utility has the duty to make proper classifications of its service and to prescribe rates accordingly, it does not have the additional obligation to determine the cheaper of two optional rates for its patrons. The Pennsylvania commission pointed out that no public service company is advised beforehand what amount of usage a given customer

will make of its service, or how efficiently it will be taken and that the choice between two such reasonable rates may properly be left to the consumer under ordinary circumstances. The Pennsylvania commission did, however, concede the possibility of a utility making its classificaton of consumers unnecessarily complicated by the prescription of an unwarranted number of optional rates.

Now comes a criticism of the optional form of rates, in a recent opinion of the New York Public Service Commission, written by Chairman Maltbie, following an inquiry into the rate practices of the Long Island Lighting Company. Chairman Maltbie's decision holds, in brief, that if a customer of a public utility is charged with the duty of selecting the optional rate schedule most advantageous to him and the utility is relieved of responsibility in the matter, it may well be that optional rates should be declared unreasonable and improper.

The particular complainant in the New York case, it appears, was in California during 1929 and 1930, during which time he was billed under the more unfavorable of two alternative rates for gas service to his Long Island home. Only in 1931 did he notice the optional rate on one of his gas bills.

In directing the utility to submit a new schedule eliminating the optional rate and applying the same rate to all consumers of a single class, Chairman Maltbie's opinion stated:

> "As a matter of fact, it is admitted that under optional rates, as in the instant case, customers using exactly the same amount of gas or electricity and in the same months are charged different rates. The only defense is that an option has been given the customer; that if he does not select the most advantageous rate, it is his fault; and that he must keep informed of his options at all times and act wisely.
>
> "If this be sound, it is obviously a serious criticism of optional rates. It may be a move to shift responsibility placed by law upon the utility companies from their shoulders to customers. But if the responsibility is so shifted and if utilities are under no obligations to guard against such obvious improper charges as in the case now before us, it may well be that optional rates should be declared unreasonable and improper and that the commission should announce its opposition to such rates."

The New York opinion points out the fact that the commission "has no power to order reparation, as have many other commissions." *Re Long Island Lighting Co. (N. Y.) Case No. 6748.*

Limitation of Liability by a State Commission for Bus Baggage Is Sustained

It has been the law in North Carolina for some time that common carriers could not make a valid contract limiting liability for negligence resulting in loss or damage to the baggage of a passenger (Cooper *v.* Southern Railroad, 161 N. C. 400). The legislature of that state in 1927, however, passed a law (Chap. 136, Public Laws of 1927) giving to the corporation commission fairly broad powers for the regulation and supervision of intrastate motor carriers. In the exercise of these statutory powers the corporation commission adopted a regulation limiting the amount of baggage to be carried without extra charge on intrastate busses and limiting the liability of the carrier for loss or damage to such baggage to $50, in the absence of a declared higher valuation and the payment of an extra charge as provided by tariff regulations filed with and approved by the commission.

Recently, R. A. Knight, a passenger traveling from Rocky Mount to Durham lost his bag and contents which was found by a trial jury to be worth $148. The carrier objected that the commission's regulation as shown on Mr. Knight's claim check restricted the liability to $50.

The question before the supreme

court of the state, therefore, was to determine whether the 1927 law and the action of the commission by virtue of such law took Mr. Knight's case out of the application of the Cooper Case above mentioned. The court held that it did have such effect and sustained the 1927 law, as well as the regulation of the commission. *Knight v. Carolina Coach Co. (N. C. Sup. Ct.) No. 253.*

Carriers Cannot Evade Filed Rates by Special Agreement

THE receiver appointed for a ferry company operating across Puget Sound recently instituted proceedings in the Washington Supreme Court to recover from a bus company the difference between rates actually paid to the ferry company for the transportation of busses and the duly authorized rates for such service on file with the Washington Department of Public Works. It appeared that lower rates had been paid by the bus company under an agreement with the ferry company. In the instant proceeding the bus company urged that the payment and acceptance of the ferry rate under such special agreement less than the rate fixed by tariff was an accord and satisfaction, which prevented the ferry company from recovering the difference.

The supreme court of Washington, however, in sustaining the receiver's suit held that the tariffs filed with the department of public works were effective until modified and that they could not be evaded by agreement between a carrier and its patrons. Incidentally, the court also held that jurisdiction over such a proceeding was not vested exclusively in the department of public works. *Robinson v. Wolverton Auto Bus Co. (Wash. Sup. Ct.) No. 22746, 300 Pac. 533.*

Irregular Motor Carrier Service Is Authorized in Colorado

THE Colorado commission has adopted the policy of granting certificates of convenience and necessity for the operation of "irregular" motor carriers for the transportation of household goods and freight. These certificates permit the holders to operate at any time between any two points in the state as compared with the restrictions as to territory and terminals imposed upon regularly scheduled carriers. Such irregular authority, however, is conditioned upon the requirement that transportation of all freight, except household goods, between points singly served or in combination by scheduled carriers must be for a rate at least 20 per cent in excess of the regularly scheduled carriers' rate. It is further provided that such rates for a regular service shall not be lower than those rates carried on file with the commission by the Colorado Transfer & Warehousemen's Association.

In a recent proceeding involving an application for such a certificate, the applicant attempted to point out a distinction between the service he was rendering and common carrier service by claiming that instead of making a charge for actual transportation he made a so-called "service charge" against his patrons. The commission was of the opinion, however, that this was a mere subterfuge and the applicant should be required to furnish the commission with a record of all freight transported by him as a common carrier under such arrangement, and to pay a proper road tax. *Re Levy's Transfer & Storage Co. (Colo.) Application No. 1587, Decision No. 3466.*

A State Commission May Require Local Station Improvement by an Interstate Rail Carrier

UPON complaint of the local chamber of commerce the Colorado commission has ordered the Colorado & Southern Railway Company to improve the comfort, convenience, and appearance of its railway station at Boulder by installing adequate heating facilities and renovating the station grounds.

The company had objected to the commission's jurisdiction because of the fact that it was engaged in interstate commerce. The commission was of the opinion, however, that the fact that a railway station is used in interstate commerce does not prevent proper state authorities from reasonable regulation to the end that adequate and proper comfort, service, and convenience might be given and afforded to those traveling in intrastate commerce. The commission observed that it was very questionable whether it could give any regard to æsthetic and other considerations bearing on attractive architectural form in such a proceeding. Its observation was prompted by an objection of the complainant to an unsightly cupola and other alleged "architectural monstrosities" at the old station. *Boulder Chamber of Commerce v. Colorado & Southern Railway Co. et al.* (*Colo.*) *Case No. 460, Decision No. 3497.*

Air-Butane Gas Service Is Authorized for Small New York State Community

LAST May the New York state Public Service Commission handed down an order denying an application of the Central Hudson Gas & Electric Company to construct a transmission pipe line beneath the Hudson river from its system in Poughkeepsie on the eastern shore to serve artificial gas to certain small communities on the western side. This action by the commission was taken because of the failure of the company to submit sufficient definite data to show that the project would be economically practical and would not become a drain upon its established system, and the order was without prejudice to the right of the company to renew the application upon the completion of supplemental studies.

More recently, the company has asked the commission for authority to serve these communities under a different setup. The new plan is to substitute a local air-butane gas plant for the originally proposed piped artificial supply. The commission has granted this application upon a showing that while the immediate prospective earnings of the proposed system will not be very profitable they will at least prevent the new service from becoming a drain upon the more profitable units. *Re Central Hudson Gas & Electric Corp.* (*N. Y.*) *Case Nos. 6490, 6543, 6503.*

The Respective Use of Terminal Facilities by Two Rail Carriers Is Determined

IN determining the proportionate use made of the union station of the Boston Terminal Company in the city of Boston by the New York, New Haven & Hartford Railroad Company and the New York Central Railroad Company, in order to fix their respective shares in defraying the cost of administration, maintenance, and operation of such station, the Massachusetts